1–13–03 Monday
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CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

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Presidential Documents

Title 3—

The President

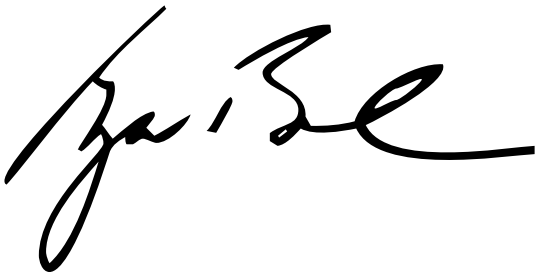
Presidential Determination No. 03–09 of January 7, 2003

Determination Pursuant to Section 2(c)(1) of the Migration and Refugee Assistance Act of 1962, as Amended

Memorandum for the Secretary of State

Pursuant to section (2)(c)(1) of the Migration and Refugee Assistance Act of 1962, as amended, 22 U.S.C. 2601(c)(1), I hereby determine that it is important to the national interest that up to $11 million be made available from the U.S. Emergency Refugee and Migration Assistance Fund to address unexpected urgent refugee and migration needs arising from the crises in Côte d'Ivoire and Liberia, and from the return of refugees to Sierra Leone and Angola. These funds may be used, as appropriate, to provide contributions to international, governmental, and nongovernmental organizations.

You are authorized and directed to inform the appropriate committees of the Congress of this determination and the obligation of funds under this authority, and to arrange for the publication of this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 7, 2003.

[FR Doc. 03–725
Filed 1–10–03; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 68, No. 8
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AJ61

Prevailing Rate Systems; Definition of Santa Clara, CA, Nonappropriated Fund Wage Area

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is issuing a final rule that abolishes the Alameda-Contra Costa, CA, nonappropriated fund (NAF) Federal Wage System wage area and establishes a new Santa Clara, CA, NAF wage area. This change was necessary because the closure of the Army and Air Force Exchange Service Distribution Center in Oakland left the Alameda-Contra Costa wage area without a host activity to conduct a local wage survey. Full-scale surveys for the Santa Clara wage area will be conducted in September of each even-numbered fiscal year.

DATES: Effective Date: This regulation is effective on February 12, 2003.

FOR FURTHER INFORMATION CONTACT: Chenty I. Carpenter, (202) 606–2838; FAX: (202) 606–0824; or e-mail *cicarpen@opm.gov.*

SUPPLEMENTARY INFORMATION: On July 17, 2002, the Office of Personnel Management (OPM) published an interim rule (67 FR 46839) that abolished the Alameda-Contra Costa, CA, nonappropriated fund (NAF) Federal Wage System (FWS) wage area and established a new Santa Clara, CA, NAF wage area. The interim rule had a 30-day public comment period, during which OPM received no comments. The change was necessary because the closure of the Army and Air Force Exchange Service Distribution Center in Oakland left the Alameda-Contra Costa wage area without a host activity to conduct a local wage survey. The new Santa Clara NAF wage area will now consist of Santa Clara County as the survey area. The area of application for the Santa Clara, CA, wage area will include Alameda, Contra Costa, and San Mateo Counties. A full-scale survey for the Santa Clara wage area was conducted in September 2002.

Under 5 U.S.C. 5343(a), NAF FWS wage area boundaries may not extend beyond the immediate locality where NAF employees work. OPM may establish an NAF wage area under 5 CFR 532.219 when a minimum of 26 NAF wage employees are employed in a survey area and sufficient private employment exists within the survey area to provide adequate data for establishing an NAF wage schedule. Santa Clara County meets the regulatory criteria to be a separate NAF wage area, and the Department of Defense recommended that Santa Clara County be redefined as the sole survey county for the new FWS NAF wage area, and that Alameda, Contra Costa, and San Mateo Counties be defined as areas of application counties.

OPM regulations at 5 CFR 532.219 require a minimum of 1,800 private enterprise employees in establishments within the scope of a NAF survey in order to establish a separate wage area within the survey specifications. Because Alameda, Contra Costa, and San Mateo Counties will have continuing NAF employment and do not meet the regulatory criteria in 5 CFR 532.219 to be separate survey areas, they must be considered areas of application to Santa Clara County. The Department of Defense conducted a full scale survey in Santa Clara County in September 2002. The Federal Prevailing Rate Advisory Committee, the national labor-management committee that advises OPM on FWS pay matters, recommended these changes by consensus.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it will affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

Accordingly, under the authority of 5 U.S.C. 5343, the interim rule (67 FR 46839) amending 5 CFR part 532 published on July 17, 2002, is adopted as final with no changes.

U.S. Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–400 Filed 1–10–03; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 82

[Docket No. 02–117–2]

Exotic Newcastle Disease; Additions to Quarantined Area and Applicability of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the exotic Newcastle disease regulations by quarantining Imperial, Orange, San Diego, Santa Barbara, and Ventura Counties, CA, and the previously non-quarantined portions of Riverside and San Bernardino Counties, CA, and prohibiting or restricting the movement of birds, poultry, products, and materials that could spread exotic Newcastle disease from the quarantined area. We are also amending the regulations to provide that the prohibitions and restrictions that apply to the interstate movement of birds, poultry, products, and materials that could spread exotic Newcastle disease will also apply to the intrastate movement of those articles in situations where the Secretary of Agriculture has issued a declaration of extraordinary emergency. These actions are necessary on an emergency basis to prevent the spread of exotic Newcastle disease from the quarantined area.

DATES: This interim rule was effective January 7, 2003. We will consider all comments that we receive on or before March 14, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or

by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–117–2, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–117–2. If you use e-mail, address your comment to *regulations@aphis.usda.gov.* Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–117–2'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: Dr. Aida Boghossian, Senior Staff Veterinarian, Emergency Programs Staff, VS, APHIS, 4700 River Road Unit 41, Riverdale, MD 20737–1231; (301) 734–8073.

SUPPLEMENTARY INFORMATION:

Background

Exotic Newcastle disease (END) is a contagious and fatal viral disease affecting the respiratory, nervous, and digestive systems of birds and poultry. END is so virulent that many birds and poultry die without showing any clinical signs. A death rate of almost 100 percent can occur in unvaccinated poultry flocks. END can infect and cause death even in vaccinated poultry.

The regulations in ''Subpart A—Exotic Newcastle Disease (END)'' (9 CFR 82.1 through 82.15, referred to below as the regulations) were established to prevent the spread of END in the United States in the event of an outbreak. In § 82.3, paragraph (a) provides that any area where birds or poultry infected with END are located will be designated as a quarantined area, and that a quarantined area is any geographical area, which may be a premises or all or part of a State, deemed by epidemiological evaluation to be sufficient to contain all birds or poultry known to be infected with or exposed to END. Less than an entire State will be designated as a quarantined area only if the State enforces restrictions on intrastate movements from the quarantined area that are at least as stringent as the regulations. The regulations prohibit or restrict the interstate movement of birds, poultry, products, and materials that could spread END from quarantined areas. Areas quarantined because of END are listed in § 82.3, paragraph (c).

On October 1, 2002, END was confirmed in the State of California. The disease has been confirmed in backyard poultry, which are raised on private premises for hobby, exhibition, and personal consumption, and in commercial poultry.

In an interim rule effective on November 21, 2002, and published in the **Federal Register** on November 26, 2002 (67 FR 70674–70675, Docket No. 02–117–1), we amended the regulations in § 82.3(c) by quarantining Los Angeles County and portions of Riverside and San Bernardino Counties and restricting the interstate movement of birds, poultry, products, and materials that could spread END from the quarantined area.

In this interim rule, we are quarantining additional counties in California, either because END has been confirmed in those counties or because of the geographical proximity of those counties to areas in which END has been confirmed. Specifically, we are amending § 82.3(c) of the regulations by adding Imperial, Orange, San Diego, Santa Barbara, and Ventura Counties and the previously non-quarantined portions of Riverside and San Bernardino Counties to the quarantined area for END and by prohibiting or restricting the movement of birds, poultry, products, and materials that could spread END from the quarantined area.

On January 6, 2003 the Secretary of Agriculture signed a declaration of extraordinary emergency with respect to the END situation in California. As provided under sec. 10407 of the Animal Health Protection Act (7 U.S.C. 8306), that declaration of extraordinary emergency authorizes the Secretary to (1) hold, seize, treat, apply other remedial actions to, destroy (including preventative slaughter), or otherwise dispose of, any animal, article, facility, or means of conveyance if the Secretary determines the action is necessary to prevent the dissemination of END and (2) prohibit or restrict the movement or use within the State of California, or any portion of the State of California, of any animal or article, means of conveyance, or facility if the Secretary determines that the prohibition or restriction is necessary to prevent the dissemination of END.

As noted previously, the regulations in §§ 82.1 through 82.15 prohibit or restrict the interstate movement from quarantined areas of birds, poultry, products, and materials that could spread END. In light of the Secretary's declaration of extraordinary emergency and its accompanying authority to prohibit or restrict, if necessary to prevent the spread of END, the movement or use within the State of California of any animal or article, means of conveyance, or facility, we are amending the regulations to provide that the provisions of the regulations regarding interstate movement will also apply to intrastate movement. This provision, which we are adding as a new § 82.16, specifies that the applicability of the regulations to intrastate movement holds only in situations where the Secretary has issued a declaration of extraordinary emergency and only until such time as the Secretary terminates that declaration.

Emergency Action

This rulemaking is necessary on an emergency basis to prevent END from spreading to other States. Under these circumstances, the Administrator has determined that prior notice and opportunity for public comment are contrary to the public interest and that there is good cause under 5 U.S.C. 553 for making this rule effective less than 30 days after publication in the **Federal Register**.

We will consider comments that we receive during the comment period for this interim rule (*see* **DATES** above). After the comment period closes, we will publish another document in the **Federal Register**. The document will include a discussion of any comments we receive and any amendments we are making to the rule.

Executive Order 12866 and Regulatory Flexibility Act

This rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review under Executive Order 12866.

This rule amends the regulations by quarantining Imperial, Orange, San Diego, Santa Barbara, and Ventura Counties, CA, and the previously non-quarantined portions of Riverside and San Bernardino Counties, CA, and by prohibiting or restricting the movement of birds, poultry, products, and

materials that could spread END from the quarantined area. This rule also amends the regulations to provide that the prohibitions and restrictions that apply to the interstate movement of birds, poultry, products, and materials that could spread END will also apply to the intrastate movement of those articles in situations where the Secretary of Agriculture has issued a declaration of extraordinary emergency. These actions are necessary on an emergency basis to prevent the spread of END from the quarantined area.

This emergency situation makes timely compliance with section 604 of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) impracticable. We are currently assessing the potential economic effects of this action on small entities. Based on that assessment, we will either certify that the rule will not have a significant economic impact on a substantial number of small entities or publish a final regulatory flexibility analysis.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (*See* 7 CFR part 3015, subpart V.)

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 9 CFR Part 82

Animal diseases, Poultry and poultry products, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, 9 CFR part 82 is amended as follows:

PART 82—EXOTIC NEWCASTLE DISEASE (END) AND CHLAMYDIOSIS; POULTRY DISEASE CAUSED BY SALMONELLA ENTERITIDIS SEROTYPE ENTERITIDIS

1. The authority citation for part 82 is revised to read as follows:

Authority: 7 U.S.C. 8301–8317; 7 CFR 2.22, 2.80, and 371.4.

2. In § 82.3, paragraph (c) is revised to read as follows:

§ 82.3 Quarantined areas.

* * * * *

(c) The following areas are quarantined because of END:

California

Imperial County. The entire county.

Los Angeles County. The entire county.

Orange County. The entire county.

Riverside County. The entire county.

San Bernardino County. The entire county.

San Diego County. The entire county.

Santa Barbara County. The entire county.

Ventura County. The entire county.

3. In ''Subpart A—Exotic Newcastle Disease (END),'' a new § 82.16 is added to read as follows:

§ 82.16 Extraordinary emergencies; applicability of regulations.

When, in accordance with sec. 10407 of the Animal Health Protection Act (7 U.S.C. 8306), the Secretary of Agriculture determines that an extraordinary emergency exists because of END, the regulations in this subpart regarding interstate movement shall be applicable to intrastate movement within any State or portion of a State subject to the Secretary's declaration of extraordinary emergency until such time as the Secretary terminates that declaration.

Done in Washington, DC, this 7th day of January, 2003.

Bobby R. Acord,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–573 Filed 1–10–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–250–AD; Amendment 39–13013; AD 2003–01–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) series airplanes, that requires replacement of the existing smoke detectors in the cargo compartment with new, improved smoke detectors. This amendment is prompted by mandatory continuing airworthiness information from a civil airworthiness authority. The actions specified by this AD are intended to prevent false smoke warnings from the smoke detectors in the cargo compartment. A false smoke warning prompts the flightcrew to discharge fire extinguisher bottles, leaving those bottles depleted in the event of an actual fire. Repeated false smoke warnings create uncertainty as to whether an emergency landing and emergency evacuation of passengers and flightcrew is warranted.

DATES: Effective February 18, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 18, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, 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, 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: Dan Parrillo, Aerospace Engineer, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; telephone (516) 256–7505; 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 certain Bombardier Model CL–600–2B19 series airplanes was published as a second supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on August 16, 2002 (67 FR 53525). That action proposed to require replacement of the existing smoke detectors in the cargo compartment with new, improved smoke detectors. That action also proposed to include spare part information.

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.

Explanation of Change to Applicability

We have revised the applicability of the final rule to identify model designations as published in the most recent type certificate data sheet for the affected models.

Explanation of Editorial Change

We have changed the service bulletin citations throughout this final rule to exclude the CRJ 100/200 Service Bulletin Compliance Facsimile Reply Sheet and Service Bulletin Comment Sheet—Facsimile Reply Sheet. (Those forms are intended to be completed by operators and submitted to the manufacturer to provide input on the quality of the service bulletins and report compliance; however, this AD does not include such requirements.)

Conclusion

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

Cost Impact

The FAA estimates that 281 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 of the existing smoke detectors in the cargo compartment with new, improved smoke detectors, and that the average labor rate is $60 per work hour. The cost of required parts is approximately $4,136 ($876 for one smoke detector kit and $1,630 each for two smoke detectors). Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $1,195,936, or $4,256 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. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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:

2003–01–02 **Bombardier, Inc. (Formerly Canadair):** Amendment 39–13013. Docket 2001–NM–250–AD.

Applicability: Model CL–600–2B19 (Regional Jet Series 100 & 440) series airplanes, serial numbers 7003 through 7480 inclusive; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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 false smoke warnings from the smoke detectors in the cargo compartment, which prompt the flightcrew to discharge fire extinguisher bottles, leaving those bottles depleted in the event of an actual fire, or which create uncertainty as to whether an emergency landing and emergency evacuation of passengers and flightcrew is warranted, accomplish the following:

Replacement

(a) Within 18 months after the effective date of this AD: Replace the existing smoke detectors having part number (P/N) 473052, which are located in the cargo compartment, with new, improved smoke detectors having P/N 473597–19, in accordance with Bombardier Service Bulletin 601R–26–016, Revision B, dated August 10, 2001, excluding CRJ 100/200 Service Bulletin Compliance Facsimile Reply Sheet and Service Bulletin Comment Sheet—Facsimile Reply Sheet; or Revision C, dated August 17, 2001, excluding CRJ 100/200 Service Bulletin Compliance Facsimile Reply Sheet and Service Bulletin Comment Sheet—Facsimile Reply Sheet.

Spares

(b) As of the effective date of this AD, no person shall install Walter Kidde Aerospace smoke detectors having P/N 473052 on any airplane.

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, New York Aircraft Certification Office (ACO), FAA. 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 2: 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

(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 Bombardier Service Bulletin 601R–26–016, Revision B, dated August 10, 2001, excluding CRJ 100/200 Service Bulletin Compliance Facsimile Reply Sheet and

Service Bulletin Comment Sheet—Facsimile Reply Sheet; or Bombardier Service Bulletin 601R–26–016, Revision C, dated August 17, 2001, excluding CRJ 100/200 Service Bulletin Compliance Facsimile Reply Sheet and Service Bulletin Comment Sheet—Facsimile Reply Sheet. 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., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, 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 3: The subject of this AD is addressed in Canadian airworthiness directive

CF–2001–21, dated May 23, 2001.

Effective Date

(f) This amendment becomes effective on February 18, 2003.

Issued in Renton, Washington, on December 31, 2002.

Kevin Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–332 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NE–44–AD; Amendment 39–13016; AD 2003–01–05]

RIN 2120–AA64

Airworthiness Directives; General Electric Co. CF6–80A Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to General Electric Co. (GE) CF6–80A series turbofan engines. This action requires the following initial and repetitive inspections of certain part number (P/N) stage 1 high pressure turbine (HPT) rotor disks for cracks:

- Etch preparations and fluorescent penetrant inspections.
- Visual inspections.
- Eddy current inspections.

This amendment is prompted by a Boeing 767 airplane recently experiencing a stage 1 HPT rotor disk separation resulting in uncontained engine failure. The actions specified in this AD are intended to detect cracks in the bottoms of the dovetail slots that could propagate to failure of the disk and cause an uncontained engine failure.

DATES: Effective January 28, 2003. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of January 28, 2003.

Comments for inclusion in the Rules Docket must be received on or before March 14, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2002–NE–44–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may be inspected at this location, by appointment, between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments may also be sent via the Internet using the following address: ''*9-ane-adcomment@faa.gov*''. Comments sent via the Internet must contain the docket number in the subject line.

The service information referenced in this AD may be obtained from General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. This information may be examined, by appointment, at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Anthony W. Cerra Jr., Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone: (781) 238–7128, fax: (781) 238–7199.

SUPPLEMENTARY INFORMATION: On December 8, 2002, a Boeing 767–200 equipped with GE CF6–80A series engines experienced an uncontained failure of a stage 1 HPT rotor disk during climb. The results of the investigation indicate that the stage 1 HPT rotor disk failure was the result of a crack that initiated in an aft corner edge of the bottom of a dovetail slot. The crack propagated in fatigue to critical crack size, and subsequently resulted in disk rupture and separation.

In September 2000, a U.S. operator experienced a similar uncontained failure of the stage 1 HPT rotor disk during a ground maintenance run of a CF6–80C2 engine. The investigation of that failure had indicated that a crack initiated in the dovetail slot bottom aft edge. The root cause of the crack initiation remains unknown. However, cracks, burrs, or damage sustained in the dovetail slot bottom corner radii from improper handling and processing during new part manufacture and/or during maintenance were suspect for the September 2000 event. AD 2001–10–07, which became effective on June 28, 2001, was issued to mandate inspections of the CF6–80C2 stage 1 HPT rotor disk dovetail slot bottoms.

Since 1995, shop level inspections have found eleven stage 1 HPT rotor disks from CF6–80A series engines and CF6–80C2 series engines with crack-like indications in the dovetail slot bottoms. These indications resulted from material inclusions, toolmarks, broach burrs, and unknown causes. Of these eleven disks, three have been CF6–80A series engine stage 1 HPT rotor disks, with cracks in the dovetail slot bottom aft corner radius. Of the three that have been –80A series engine disks, two indications were associated with non-propagating broaching burrs occurring during manufacture, while no root cause was identified for the third. Only the third disk had crack propagation.

The failure of the disk involved in the recent CF6–80A series engine event was also caused by a crack that initiated in the dovetail slot bottom aft edge. This event is still under investigation. Therefore, this final rule; request for comments is an interim action until a root cause is established for the crack initiation and/or additional corrective actions are identified. The actions specified by this AD are intended to detect cracks in the bottoms of the dovetail slots that could propagate to failure of the disk and cause an uncontained engine failure. This condition, if not corrected, could result in stage 1 HPT rotor disk separation resulting in uncontained engine failure.

Manufacturer's Service Information

The FAA has reviewed and approved the technical contents of GE Service Bulletin (SB) CF6–80A S/B 72–0779, dated March 20, 2002 that describes procedures for etch preparation, fluorescent penetrant, visual, and eddy current inspections of the following stage 1 HPT rotor disks P/N's used on CF6–80A, –80A1, –80A2, and –80A3 series turbofan engines:

9234M67G22	9234M67G24	9234M67G25	9234M67G26
9362M58G02	9362M58G06	9362M58G07	9362M58G09
9367M45G02	9367M45G04	9367M45G09	N/A

Differences Between This AD and the Manufacturer's Service Information

SB CF6–80A S/B 72–0779, dated March 20, 2002, only requires a one-time inspection at the next exposure of disks that have accumulated operating cycles, and requires no inspection of new disks that have not yet accumulated operating cycles. This AD requires initial and repetitive inspections of the affected P/N's of stage 1 HPT rotor disks, as specified in the following paragraph.

FAA's Determination of an Unsafe Condition and Required Actions

Since an unsafe condition has been identified that is likely to exist or develop on other GE CF6–80A, –80A1, –80A2, and –80A3 series turbofan engines of the same type design, this AD is being issued to detect cracks in the bottoms of the dovetail slots that could propagate to failure of the disk and cause an uncontained engine failure. This AD requires:

• For stage 1 HPT rotor disks not currently installed in engines, before further flight, inspection of disk dovetail slot bottoms. Any disk that meets or exceeds the reject criteria of SB CF6–80A S/B 72–0779, dated March 20, 2002, is not to be installed into any engine.

• For stage 1 HPT rotor disks that have been inspected in accordance with SB CF6–80A S/B 72–0779, dated March 20, 2002, before the effective date of this AD, inspection of the disk dovetail slot bottoms at each piece-part exposure of the disk, and replacement of disks as necessary.

• For stage 1 HPT rotor disks that have not been inspected in accordance with SB CF6–80A S/B 72–0779, dated March 20, 2002, before the effective date of this AD, inspection of the disk dovetail slot bottoms at next engine shop visit, and each piece-part exposure of the disk, and replacement of disks as necessary.

• A mandatory reporting requirement which mandates that within 5 calendar days of an inspection, any results that equal or exceed the reject criteria be reported to the FAA's Engine and Propeller Directorate, Engine Certification Office.

The actions are required to be done in accordance with the service bulletin described previously.

Interim Actions

The actions specified in the AD are considered interim actions and further action is anticipated based on the continuing investigation of the stage 1 HPT rotor disk cracking.

Immediate Adoption of This AD

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

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NE–44–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Analysis

This final rule does not have federalism implications, as defined in Executive Order 13132, because it 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. Accordingly, the FAA has not consulted with state authorities prior to publication of this final rule.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–01–05 General Electric Co.: Amendment 39–13016. Docket No. 2002–NE–44–AD.

Applicability

This airworthiness directive (AD) is applicable to General Electric Co. (GE) CF6–

80A, –80A1, –80A2, and –80A3 series turbofan engines with the stage 1 high pressure turbine (HPT) rotor disks part numbers (P/N's) listed in the following Table 1:

TABLE 1.—STAGE 1 HPT ROTOR DISKS P/N'S AFFECTED

9234M67G22	9234M67G24	9234M67G25	9234M67G26
9362M58G02	9362M58G06	9362M58G07	9362M58G09
9367M45G02	9367M45G04	9367M45G09	N/A

These engines are installed on, but not limited to, Airbus Industrie A310 and Boeing 767 airplanes.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (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

Compliance with this AD is required as indicated, unless already done.

To detect cracks in the bottoms of the dovetail slots that could propagate to failure of the disk and cause an uncontained engine failure, do the following in accordance with paragraphs 3.A. through 3.C.(10)(h) of the Accomplishment Instructions of GE Service Bulletin (SB) CF6–80A S/B 72–0779, dated March 20, 2002:

(a) For stage 1 HPT rotor disks not currently installed in engines, before further flight, inspect the disk dovetail slot bottoms. Do not install any disk that meets or exceeds the reject criteria of the above service bulletin, into any engine.

(b) For stage 1 HPT rotor disks that have been inspected in accordance with the above service bulletin before the effective date of this AD, inspect the disk dovetail slot bottoms at each piece-part exposure of the disk, and replace disk as necessary.

(c) For stage 1 HPT rotor disks that have not been inspected in accordance with the above service bulletin before the effective date of this AD, inspect the disk dovetail slot bottoms at next engine shop visit, and each piece-part exposure of the disk, and replace disk as necessary.

Definitions

(d) An engine shop visit is defined as the induction of an engine into a shop, where the separation of a major engine flange will occur after the effective date of this AD.

(e) Piece-part exposure is defined as:

(1) The part being considered completely disassembled, when done in accordance with the disassembly instructions of the manufacturer's or other FAA-approved engine manual; AND

(2) The part has accumulated more than 100 cycles-in-service since the last piece-part opportunity inspection, provided that the part was not damaged or related to the cause for its removal from the engine.

Reporting Requirements

(f) Report within 5 calendar days of inspection the results of inspections that equal or exceed the reject criteria to: Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7128; fax (781) 238–7199. Reporting requirements have been approved by the Office of Management and Budget (OMB) control number 2120–0056. Be sure to include the following information:

(1) Engine model in which the stage 1 HPT rotor disk was installed.

(2) Disk Part Number.

(3) Disk Serial Number.

(4) Disk Cycles-Since-New.

(5) Disk Cycles-Since-Last Inspection.

(6) Date and Location of Inspection.

Note 2: The FAA recommends recording the inspection results on GE Form 1653–1, found in GE SB CF6–80A S/B 72–0779, dated March 20, 2002, and sending the data to GE Airline Support Engineering.

Alternative Methods of Compliance

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the ECO.

Special Flight Permits

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

Documents That Have Been Incorporated by Reference

(i) The inspections must be done in accordance with General Electric Co. Service Bulletin CF6–80A S/B 72–0779, dated March 20, 2002. 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 General Electric Company via Lockheed Martin Technology Services, 10525 Chester Road, Suite C, Cincinnati, Ohio 45215, telephone (513) 672–8400, fax (513) 672–8422. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on January 28, 2003.

Issued in Burlington, Massachusetts, on January 2, 2003.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 03–331 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–166–AD; Amendment 39–13009; AD 2002–26–20]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), and DC–9–83 (MD–83) Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–9–81 (MD–81), DC–9–82 (MD–82), and DC–9–83 (MD–83) airplanes, and Model MD–88 airplanes, that requires an inspection of the disconnect panel area above the aft left lavatory for chafed or damaged wires or unacceptable clearance between the wires and adjacent structure, and corrective actions, if necessary. The actions specified by this AD are intended to prevent chafing of wires at the disconnect panel above the aft left lavatory, which could result in electrical arcing, and consequent fire in the cabin. This action is intended to address the identified unsafe condition.

DATES: Effective February 18, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 18, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). 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, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Elvin Wheeler, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5344; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–81, –82, and –83 series airplanes, and Model MD–88 airplanes was published in the **Federal Register** on March 14, 2002 (67 FR 11453). That action proposed to require an inspection of the disconnect panel area above the aft left lavatory for chafed or damaged wires or unacceptable clearance between the wires and adjacent structure, and corrective actions, if necessary.

Comments

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

Request To Withdraw Proposed AD

One commenter suggests that the FAA reconsider mandating the service bulletin referenced in the proposed AD until other methods of resolution are investigated. Specifically, the commenter would like the FAA to work with Jamco and Boeing to develop a better solution, such as modifying the connector bracket and protecting the adjacent wire bundle. The commenter states that its airplanes have had wire chafing in the disconnect panel area above the aft left lavatory, and necessary precautions were taken to preclude further damage. The commenter notes that removing the corner of the electrical connector bracket and protecting the affected wire bundle with Teflon tape has provided an effective resolution to eliminate wire chafing on its airplanes. The commenter adds that the corrective action specified in the proposed AD that would require adjusting the clearance to 0.50 inch with the use of ''tie-wraps,'' cannot be attained without creating a preload condition that could cause additional wire damage. A second commenter supports these concerns and suggests that the FAA withdraw the proposed AD and develop a more effective solution.

We do not agree with the commenters. We investigated the commenters' concerns and found that the airplane manufacturer did, in fact, inspect the wires in the aft left disconnect panel for a preload condition. The inspection revealed that a preload condition should not exist on the wires if they are ''properly secured'' with tie-wraps to obtain the 0.50-inch minimum clearance between the wires and the adjacent structure. If a preload condition is in some way created by adding the tie-wraps to the wires per the instructions in the service bulletin, the tie-wraps on the wire bundle, including the tie-wraps above the bundle, should be cut and reinstalled to obtain the 0.50-inch clearance, which will eliminate the preload condition. The manufacturer also investigated the possibility of cutting off the corner of the electrical connector bracket to eliminate the possibility of wire chafing, but there was a risk of damaging the existing wires with the tooling device used. No change to the final rule is necessary in this regard. However, if data are submitted that provide an alternative procedure that will offer an acceptable level of safety, we would consider this under the provisions for an alternative method of compliance, as provided in paragraph (b) of this final rule.

Explanation of Editorial Change

We have changed the service bulletin citation throughout this final rule to exclude the Appendix (and Evaluation Form). The service bulletin recommends that report findings be submitted to the manufacturer using the Appendix of the service bulletin. However, this AD does not require that operators submit reports of inspection findings.

Explanation of Change to Applicability

We have changed the applicability of the proposed AD to identify model designations as published in the most recent type certificate data sheet for the affected models.

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 1,198 airplanes of the affected design in the worldwide fleet. The FAA estimates that 586 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection, 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 $35,160, or $60 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. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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:

2002–26–20 McDonnell Douglas: Amendment 39–13009. Docket 2000–NM–166–AD.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), and DC–9–83 (MD–83) airplanes, and Model MD–88 airplanes; certificated in any category; as listed in Boeing Alert Service Bulletin MD80–24A184, dated October 26, 2000; equipped with Jamco lavatories.

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 (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 chafing of wires at the disconnect panel above the aft left lavatory, which could result in electrical arcing, and consequent fire in the cabin, accomplish the following:

Inspection and Corrective Actions

(a) Within 120 days from the effective date of this AD, perform a general visual inspection of the disconnect panel area above the aft left lavatory for damaged or chafed wires or unacceptable clearance between the wires and structure, in accordance with Boeing Alert Service Bulletin MD80–24A184, excluding Appendix and Evaluation Form, all dated October 26, 2000.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) Condition 1. If no damaged or chafed wire and if acceptable clearance (*i.e.*, 0.50-inch minimum) between the wires and adjacent structure is found, no further action is required by this AD.

(2) Condition 2. If no chafed or damaged wire and if unacceptable clearance between the wires and adjacent structure is found, before further flight, secure wires using tie-wraps to obtain a 0.50-inch minimum clearance, in accordance with the service bulletin.

(3) Condition 3. If any chafed or damaged wire and unacceptable clearance between the wires and adjacent structure is found, before further flight, repair or replace any chafed or damaged wire with a new wire and secure wires using tie-wraps to obtain a 0.50-inch minimum clearance, in accordance with the service bulletin.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles 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 Alert Service Bulletin MD80–24A184, excluding Appendix and Evaluation Form, all dated October 26, 2000. 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 Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on February 18, 2003.

Issued in Renton, Washington, on January 2, 2003.

Neil D. Schalekamp,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–327 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–315–AD; Amendment 39–13011; AD 2002–26–22]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model Hawker 800XP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Raytheon Model Hawker 800XP airplanes, that requires installing jumper wires on the computer control switches to power the digital electronic engine control when overspeed protection is selected, and tying and stowing the jumper wires on the switches. The actions specified by this AD are intended to prevent loss of the overspeed protection function without the flightcrew's awareness, due to missing jumper wires, which could result in engine overspeed and possible uncommanded engine shutdown. This action is intended to address the identified unsafe condition.

DATES: Effective February 18, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 18, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Raytheon Aircraft Company, Department 62, PO Box 85, Wichita, Kansas 67201–0085. This information may be examined at the Federal Aviation Administration (FAA),

Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jeff Pretz, Aerospace Engineer, Airframe and Propulsion Branch, ACE–118W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4153; fax (316) 946–4407.

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 Raytheon Model Hawker 800XP airplanes was published in the **Federal Register** on September 25, 2002 (67 FR 60191). That action proposed to require installing jumper wires on the computer control switches to power the digital electronic engine control when overspeed protection is selected, and tying and stowing the jumper wires on the switches.

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.

Explanation of Editorial Change

We have changed the service bulletin citation throughout this final rule to exclude the Service Bulletin/Kit Drawing Report Fax. (This form is intended to be completed by operators and submitted to the manufacturer to report compliance; however, this AD does not include such a requirement.)

Conclusion

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

Cost Impact

There are approximately 250 Model 800XP airplanes of the affected design in the worldwide fleet. The FAA estimates that 193 airplanes of U.S. registry will be affected by this AD. It will take approximately 5 work hours per airplane for airplanes with two oxygen bottles, and 6 work hours per airplane for airplanes with three oxygen bottles, to accomplish the required actions, at an average labor rate of $60 per work hour. The cost of required parts will be nominal. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $300 per airplane (for airplanes with two oxygen bottles) or $360 per airplane (for airplanes with three oxygen bottles).

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. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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:

2002–26–22 Raytheon Aircraft Company: Amendment 39–13011. Docket 2001–NM–315–AD.

Applicability: Model Hawker 800XP airplanes, as listed in Raytheon Service Bulletin SB 76–3480, dated August 2001, excluding Service Bulletin/Kit Drawing Report Fax; 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 (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 loss of the overspeed protection function without the flightcrew's awareness, due to missing jumper wires, which could result in engine overspeed and possible uncommanded engine shutdown, accomplish the following:

Jumper Wire Installation

(a) Within 3 months or 300 flight hours after the effective date of this AD, whichever occurs first, do the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD per Raytheon Service Bulletin SB 76–3480, dated August 2001, excluding Service Bulletin/Kit Drawing Report Fax.

(1) Install a four-inch jumper wire between terminals 1 and 3 on the computer control switch ''NF.''

(2) Install a six-inch jumper wire between terminals 1 and 3 on the computer control switch ''NG.''

(3) Tie and stow the jumper wires on the computer control switches ''NF'' and ''NG'' using tie-wrap.

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, Wichita Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance

Inspector, who may add comments and then send it to the Manager, Wichita ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita 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 Raytheon Service Bulletin SB 76–3480, dated August 2001, excluding Service Bulletin/Kit Drawing Report Fax. 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 Raytheon Aircraft Company, Department 62, PO Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on February 18, 2003.

Issued in Renton, Washington, on December 30, 2002.

Kevin Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–150 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–56–AD; Amendment 39–13002; AD 2002–26–14]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767–300 Series Airplanes Modified by Supplemental Type Certificate ST01869AT–D

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Boeing Model 767–300 series airplanes modified by supplemental type certificate ST01869AT–D. This action requires modifying the passenger entertainment system (PES) and revising the airplane flight manual. This action is necessary to ensure that the airplane crew is able to remove electrical power from the PES when necessary and is advised of appropriate procedures for such action. Inability to remove power from the PES during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This action is intended to address the identified unsafe condition.

DATES: Effective January 28, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of January 28, 2003.

Comments for inclusion in the Rules Docket must be received on or before March 14, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–56–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–56–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from TIMCO Engineered Systems, Inc., 623 Radar Road, Greensboro, North Carolina 27410. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert Chupka, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6070; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Discussion

The Federal Aviation Administration (FAA) recently completed a review of in-flight entertainment (IFE) systems certified by supplemental type certificate (STC) and installed on transport category airplanes. The review focused on the interface between the IFE system and airplane electrical system, with the objective of determining if any unsafe conditions exist with regard to the interface. STCs issued between 1992 and 2000 were considered for the review.

The type of IFE systems considered for review were those that contain video monitors (cathode ray tubes or liquid crystal displays; either hanging above the aisle or mounted on individual seat backs or seat trays), or complex circuitry (*i.e.*, power supplies, electronic distribution boxes, extensive wire routing, relatively high power consumption, multiple layers of circuit protection, etc.). In addition, in-seat power supply systems that provide power to more than 20 percent of the total passenger seats were also considered for the review. The types of IFE systems not considered for review include systems that provide only audio signals to each passenger seat, ordinary in-flight telephone systems (*e.g.*, one telephone handset per group of seats or bulkhead-mounted telephones), systems that only have a video monitor on the forward bulkhead(s) (or a projection system) to provide passengers with basic airplane and flight information, and in-seat power supply systems that provide power to less than 20 percent of the total passenger seats.

Items considered during the review include the following:

- Can the electrical bus(es) supplying power to the IFE system be deenergized when necessary without removing power from systems that may be required for continued safe flight and landing?
- Can IFE system power be removed when required without pulling IFE system circuit breakers (*i.e.,* is there a switch (dedicated to the IFE system or a combination of loads) located in the flight deck or cabin that can be used to remove IFE power?)?
- If the IFE system requires changes to flight crew procedures, has the airplane flight manual (AFM) been properly amended?
- If the IFE system requires changes to cabin crew procedures, have they been properly amended?
- Does the IFE system require periodic or special maintenance?

In all, approximately 180 IFE systems approved by STC were reviewed by the

FAA. The review results indicate that potential unsafe conditions exist on some IFE systems installed on various transport category airplanes. These conditions can be summarized as:

- Electrical bus(es) supplying power to the IFE system cannot be deenergized when necessary without removing power from systems that may be required for continued safe flight and landing.
- Power cannot be removed from the IFE system when required without pulling IFE system circuit breakers (*i.e.*, there is no switch dedicated to the IFE system or combination of systems for the purpose of removing power).
- Installation of the IFE system has affected crew (flight crew and/or cabin crew) procedures, but the procedures have not been properly revised.

FAA's Determination

As part of its review of IFE systems, the FAA has determined that an unsafe condition exists on Boeing Model 767–300 series airplanes modified by STC ST01869AT–D. The passenger entertainment system (PES) on these airplanes is connected to an electrical bus that cannot be deactivated without also removing power from airplane systems necessary for safe flight and landing. There is no other means to remove power from the PES. Additionally, the airplane manufacturer's published flight crew and cabin crew emergency procedures do not advise the flight crew and cabin crew that power cannot be removed from the PES. This condition, if not corrected, could result in inability to remove power from the PES during a non-normal or emergency situation, and consequent inability to control smoke or fumes in the airplane flight deck or cabin.

Explanation of Relevant Service Information

The FAA has reviewed and approved TIMCO Service Bulletin TSB–767–23–005, Revision J, dated August 29, 2001; as revised by TIMCO Engineering Change Orders TSB–767–23–005, Revision J, K1, dated September 10, 2001; K2, dated September 18, 2001; and K3, dated September 28, 2001. That service bulletin describes procedures for modifying the PES by installing two new relays and additional wiring so that the power switch located in the flight compartment can be used to remove power completely from the PES. The service documents also describe procedures for installing a switch guard on the power switch for the PES. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The FAA also has reviewed and approved TIMCO Airplane Flight Manual Supplement for Boeing B767–300, TIM–AFM–01034, Revision A, dated October 12, 2001, which revises the procedures under the heading ''Electrical Smoke or Fire'' in the ''Emergency Procedures'' section of the AFM to provide instructions for the cabin crew to remove power from the PES in an emergency.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to ensure that the airplane crew is able to remove electrical power from the PES when necessary and is advised of appropriate procedures for such action. Inability to remove power from the PES during a non-normal or emergency situation could result in inability to control smoke or fumes in the airplane flight deck or cabin. This AD requires accomplishment of the actions specified in the service bulletin described previously. This AD also would require revising procedures to be followed in the event of smoke or fire in the airplane, as contained under the heading ''Electrical Smoke or Fire'' in the ''Emergency Procedures'' section of the AFM. Accomplishment of these actions is intended to adequately address the identified unsafe condition.

In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the amount of time necessary to accomplish the proposed actions, and the practical aspect of accomplishing the proposed actions within an interval of time that parallels normal scheduled maintenance for the affected operators. In consideration of these factors, the FAA has determined that 18 months after the effective date of this AD represents an appropriate interval of time allowable wherein an acceptable level of safety can be maintained.

Other Relevant Rulemaking

The FAA has previously issued several ADs that address unsafe conditions and require corrective actions similar to those that will be required by this AD. These other ADs, and the airplane models and STCs to which they apply, are as follows:

Model/Series	STC Number	AD Reference
Airbus A340–211	ST0902AC–D	AD 2001–18–01, amendment 39–12427 (66 FR 46939, September 10, 2001)
Boeing 737–300	ST00171SE	AD 2001–14–10, amendment 39–12321 (66 FR 36455, July 12, 2001)
Boeing 737–700	ST09100AC–D ST09104AC–D ST09105AC–D ST09106AC–D	AD 2001–14–12, amendment 39–12323 (66 FR 36452, July 12, 2001)
Boeing 747–100 and –200	SA8622SW	AD 2001–14–11, amendment 39–12322 (66 FR 36453, July 12, 2001)
Boeing 747–100 and –200	ST00196SE	AD 2001–16–19, amendment 39–12388 (66 FR 43068, August 17, 2001)
Boeing 747–400	SA8843SW	AD 2001–14–15, amendment 12326 (66 FR 36447, July 12, 2001)
Boeing 747SP	ST09097AC–D	AD 2001–14–14, amendment 39–12325 (66 FR 36449, July 12, 2001)
Boeing 757–200	SA1727GL	AD 2001–14–01, amendment 39–12311 (66 FR 36149, July 11, 2001)
Boeing 767–200	SA4998NM	AD 2001–16–21, amendment 39–12390 (66 FR 43072, August 17, 2001)

Model/Series	STC Number	AD Reference
Boeing 767–200	SA5134NM	AD 2001–16–20, amendment 39–12389 (66 FR 43066, August 17, 2001)
Boeing 767–200	ST09022AC–D	AD 2001–14–13, amendment 39–12324 (66 FR 36450, July 12, 2001)
Boeing 767–300	SA5765NM SA5978NM	AD 2001–16–17, amendment 39–12386 (66 FR 42937, August 16, 2001)
Boeing 767–300	SA7019NM–D	AD 2001–18–08, amendment 39–12434 (66 FR 46517, September 6, 2001)
Boeing 767–300	ST00118SE	AD 2001–14–04, amendment 39–12314 (66 FR 36699, July 13, 2001)
Boeing 767–300	ST00157SE	AD 2001–16–18, amendment 39–12387 (66 FR 43070, August 17, 2001)
McDonnell Douglas DC–9–51 and DC–9–83	SA8026NM	AD 2001–14–02, amendment 39–12312 (66 FR 36456, July 12, 2001)
McDonnell Douglas DC–10–30	SA8452SW	AD 2001–16–22, amendment 39–12391 (66 FR 43074, August 17, 2001)
McDonnell Douglas DC–10–30	ST00054SE	AD 2001–13–03, amendment 39–12313 (66 FR 36150, July 11, 2001)

Cost Impact

None of the airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 17 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $1,020 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

Comments Invited

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

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–56–AD.'' The postcard will be date stamped and returned to the commenter.

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:

2002–26–14 Boeing: Amendment 39–13002. Docket 2002–NM–56–AD.

Applicability: Model 767–300 series airplanes modified by supplemental type certificate (STC) ST01869AT–D, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously. To ensure that the airplane crew is able to remove electrical power from the passenger entertainment system (PES) when necessary and is advised of appropriate procedures for such action, accomplish the following:

Modification and Airplane Flight Manual Revision

(a) Within 18 months after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD.

(1) Modify the PES system installed on the airplane according to TIMCO Service Bulletin TSB–767–23–005, Revision J, dated August 29, 2001; as revised by TIMCO Engineering Change Orders TSB–767–23–005, Revision J, K1, dated September 10, 2001; K2, dated September 18, 2001; and K3, dated September 28, 2001.

(2) Before further flight after accomplishing paragraph (a)(1) of this AD, revise the procedures under ''Electrical Smoke or Fire'' in the ''Emergency Procedures'' section of the FAA-approved airplane flight manual (AFM) to include TIMCO Airplane Flight Manual Supplement for Boeing B767–300, TIM–AFM–01034, Revision A, dated October 12, 2001. When the information in that AFM supplement has been incorporated into the FAA-approved general revisions of the AFM, the general revisions may be incorporated into the AFM, and the AFM supplement may be removed from the AFM.

Part Installation

(b) As of the effective date of this AD, no person may install a PES on any airplane according to STC ST01869AT–D, unless the PES is modified and the AFM is revised according to 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, Atlanta Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

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 actions shall be done in accordance with TIMCO Service Bulletin TSB–767–23–005, Revision J, dated August 29, 2001; as revised by TIMCO Engineering Change Order TSB–767–23–005, Revision J, K1, dated September 10, 2001; TIMCO Engineering Change Order TSB–767–23–005, Revision J, K2, dated September 18, 2001; and TIMCO Engineering Change Order TSB–767–23–005, Revision J, K3, dated September 28, 2001; and TIMCO Airplane Flight Manual Supplement for Boeing B767–300, TIM–AFM–01034, Revision A, dated October 12, 2001; as applicable. TIMCO Service Bulletin TSB–767–23–005, Revision J, dated August 29, 2001, includes the following effective pages:

Page number	Revision letter shown on page	Date shown on page
1–25	J	August 29, 2001.
Engineering Change Order TSB–767–23–005, K1		
1–9	J	September 10, 2001.
Engineering Change Order TSB–767–23–005, K2		
1–9	J	September 18, 2001.
Engineering Change Order TSB–767–23–005, K3		
1–2	J	September 28, 2001.

(Only the title page of the service bulletin and the first page of the Engineering Change Orders contain the issue date of those documents; no other page of those documents contains this information.) 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 TIMCO Engineered Systems, Inc., 623 Radar Road, Greensboro, North Carolina 27410. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on January 28, 2003.

Issued in Renton, Washington, on December 27, 2002.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–50 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–46–AD; Amendment 39–13018; AD 2003–02–02]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–400 and –400D series airplanes, that requires repetitive inspections to detect discrepancies of the drip shield and supports located above the rudder pedal mechanisms; corrective action, if necessary; and eventual modification of the drip shield, which would terminate the repetitive inspections. The actions specified by this AD are intended to prevent unrestrained drip shields from interfering with the rudder pedal mechanism, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective February 18, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of February 18, 2003.

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: Clint Jones, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1622; 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 747–400 series airplanes was published in the **Federal Register** on June 28, 2002 (67 FR 43570). That action proposed to require repetitive inspections to detect discrepancies of the drip shield and supports located above the rudder pedal mechanisms; corrective action, if necessary; and eventual modification of the drip shield, which would terminate the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received. One commenter concurs with the proposed AD.

Request To Clarify Applicability

One commenter asks that the applicability in the proposed AD be clarified. The commenter suggests adding Model 747–400 series airplanes certificated in the ''passenger'' category, in lieu of ''any'' category, to the applicability section. The commenter states that the drip shields referenced in the proposed AD are not installed on Model 747–400F (freighter) series airplanes.

We agree with the commenter that the applicability should be clarified; however, not in the manner proposed. Per the 747 Type Certificate Data Sheet, which specifies Model 747–400, –400D, and –400F series airplanes, we have clarified the applicability throughout this final rule to specify Model 747–400 and –400D series airplanes only.

Request To Extend Repetitive Inspection Interval

One commenter reiterates the statement in the differences section of the proposed AD that specifies the repetitive inspection interval for the ''C-check'' as every 3,000 flight hours. The commenter asks that an interval of 6,000 flight hours or 18 months be allowed as a substitute for the ''C-check'' recommended in the referenced service bulletin, in that it is a more appropriate interval, and appropriately limits both long- and short-haul airplanes. The commenter notes that the Boeing 747–400 Maintenance Planning Document recommends 6,000 flight hours or 18 months as the ''C-check'' interval, and recent data indicate that the average inspection interval for the fleet is 5,750 flight hours. The commenter adds that imposing an interval of 3,000 flight hours would force some operators to conduct twice as many inspections with less time and manpower available, with no apparent improvement in airplane safety.

We agree with the commenter. Substantiating data were submitted indicating that an extension of the repetitive inspection interval to 6,000 flight hours or 18 months, whichever is first, provides an acceptable level of safety. We find that such an extension in the repetitive inspection interval will allow the inspections to be completed during regularly scheduled maintenance visits. Paragraphs (a)(1) and (a)(2) of this final rule have been changed accordingly.

Request To Change Certain Wording

One commenter suggests that certain wording specified in Figure 2 of the Accomplishment Instructions of the referenced service bulletin be changed. The note in Figure 2 states, ''Plate clips found dis-bonded from the dripshield should be re-installed with rivets.'' The commenter asks that the word ''should'' be changed to ''must.'' The commenter does not give a reason for the request.

We do not agree with the commenter. Although the note in Figure 2 of the Accomplishment Instructions of the referenced service bulletin does not definitively specify that discrepant plate clips must be reinstalled with rivets, paragraph (c) of this AD mandates the requirements for installing the rivets. No change to the final rule is necessary in this regard.

Change to Final Rule

Because the language in Note 3 of the proposed AD is regulatory in nature, that note has been redesignated as paragraph (b) of this final rule. Subsequent paragraphs have been reordered accordingly.

Explanation of Editorial Change

We have changed the service bulletin citation throughout this final rule to exclude the Evaluation Form. (The form is intended to be completed by operators and submitted to the manufacturer to provide input on the quality of the service bulletin; however, this AD does not include such a requirement.)

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 498 airplanes of the affected design in the worldwide fleet. The FAA estimates that 60 airplanes of U.S. registry will be affected by this AD.

It will take approximately 1 work hour per airplane to accomplish the inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $3,600, or $60 per airplane, per inspection cycle.

It will take approximately 3 work hours per airplane to accomplish the terminating action, at an average labor rate of $60 per work hour. The cost of required parts will be minimal. Based on these figures, the cost impact of the required terminating action on U.S.

operators is estimated to be $10,800, or $180 per airplane.

The cost impact figures discussed above are 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. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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:

2003–02–02 Boeing: Amendment 39–13018. Docket 2002–NM–46–AD.

Applicability: Model 747–400 and -400D series airplanes, certificated in any category; as listed in Boeing Service Bulletin 747–25A3271, Revision 1, dated December 19, 2001.

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 prevent unrestrained drip shields from interfering with the rudder pedal mechanism, which could result in reduced controllability of the airplane, accomplish the following:

Repetitive Inspections

(a) Within 1,200 flight hours after the effective date of this AD: Perform a general visual inspection of the drip shield and supports of the forward rudder quadrant to detect discrepancies (less than 0.50-inch clearance from the components in the forward rudder quadrant, disbonded clip plates, and missing fasteners), in accordance with Figure 1 of the Accomplishment Instructions of Boeing Service Bulletin 747–25A3271, Revision 1, dated December 19, 2001, excluding Evaluation Form.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If no discrepancy is found: Repeat the inspection thereafter at least every 6,000 flight hours or 18 months, whichever is first, until the terminating action required by paragraph (c) of this AD has been accomplished.

(2) If any discrepancy is found during any inspection required by this paragraph: Before further flight, perform the specified corrective actions in accordance with Figure 1 of the Accomplishment Instructions of the service bulletin. Thereafter, repeat the inspection at least every 6,000 flight hours or 18 months, whichever is first, until the terminating action required by paragraph (c) of this AD has been accomplished.

(b) Accomplishment before the effective date of this AD of an inspection and applicable corrective actions in accordance with Boeing Alert Service Bulletin 747–25A3271, dated April 12, 2001, is acceptable for compliance with the initial inspection requirement of paragraph (a) of this AD.

Terminating Action

(c) Within 2 years after the effective date of this AD, modify the drip shield by installing blind rivets in each clip plate and changing the part numbers of the clip plates and drip shield, in accordance with Figure 2 of the Accomplishment Instructions of Boeing Service Bulletin 747–25A3271, Revision 1, dated December 19, 2001, excluding Evaluation Form.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(f) Unless otherwise specified in this AD, the actions shall be done in accordance with Boeing Service Bulletin 747–25A3271, Revision 1, dated December 19, 2001, excluding Evaluation Form. 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.

Effective Date

(g) This amendment becomes effective on February 18, 2003.

Issued in Renton, Washington, on January 6, 2003.

Charles D. Huber,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–559 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 020813189–2330–02]

RIN 0691–AA44

Direct Investment Surveys: BE–12, Benchmark Survey of Foreign Direct Investment in the United States—2002

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule.

SUMMARY: This final rule revises regulations for the BE–12, Benchmark Survey of Foreign Direct Investment in the United States.

The BE–12 survey is mandatory and is conducted once every 5 years by the Bureau of Economic Analysis (BEA), U.S. Department of Commerce, under the International Investment and Trade in Services Survey Act. The benchmark survey will be conducted for 2002. BEA will send the survey to potential respondents in February of the year 2003; responses will be due by May 31, 2003. The prior benchmark survey was conducted for 1997. The benchmark survey covers virtually the entire universe of foreign direct investment in the United States in terms of value, and is BEA's most comprehensive survey of such investment in terms of subject matter.

The revised rule raises the reporting threshold on the BE–12(SF) short form and the BE–12 Bank form from $3 million to $10 million; directs that only nonbank majority-owned U.S. affiliates of foreign companies report on the BE–12(LF) long form; raises the reporting threshold on the BE–12(LF) long form from $100 million to $125 million; and directs bank holding companies to file a fully consolidated report, including all nonbank operations, on the BE–12 Bank form. (Previously, the nonbanking operations were reported on a separate BE–12(LF) long form or BE–12(SF) short form.) These changes will reduce respondent burden, especially for small companies and bank holding companies.

DATES: This final rule will be effective February 12, 2003.

FOR FURTHER INFORMATION CONTACT: R. David Belli, Chief, International Investment Division (BE–50), Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone (202) 606–9800.

SUPPLEMENTARY INFORMATION: On September 12, 2002, the Bureau of Economic Analysis (BEA) published in the **Federal Register** (67 FR 57767) a notice of proposed rulemaking setting forth revised reporting requirements for the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—2002. No comments on the proposed rule were received. Thus, this final rule is the same as the proposed rule, except for minor language changes to remove a possible source of ambiguity with respect to the due date for filing Form BE–12(X), report for claiming exemption from filing a BE–12(LF) long form, BE–12 (SF) short form, or BE–12 Bank form.

This final rule amends 15 CFR 806.17 to set forth revised reporting requirements for the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—2002. The Bureau of Economic Analysis, U.S. Department of Commerce, will conduct the survey under the Inter-national Investment and Trade in Services Survey Act (22 U.S.C. 3101–3108), hereinafter, ''the Act.''

Section 4(b) of the Act requires that with respect to foreign direct investment in the United States, the President shall conduct a benchmark survey covering year 1980, a benchmark survey covering year 1987, and benchmark surveys covering every fifth year thereafter. In conducting surveys (of U.S. direct investment abroad and foreign direct investment in the United States) pursuant to this subsection, the President shall, among other things and to the extent he determines necessary and feasible identify the location, nature, and magnitude of, and changes in the total investment by any parent in each of its affiliates and the financial transactions between any parent and each of its affiliates; information on the balance sheet of parents and affiliates and related financial data, income statements, including the gross sales by primary line of business (with as much product line detail as is necessary and feasible) of parents and affiliates in each country in which they have significant operations, and related information regarding trade (including trade in both goods and services) between a parent and each of its affiliates and between each parent or affiliate and any other person; collect employment data showing both the number of United States and foreign employees of each parent and affiliate and the levels of compensation, by country, industry, and skill level; obtain information on tax payments by parents and affiliates by country; and determine, by industry and country, the total dollar amount of research and development expenditures by each parent and affiliate, payments or other compensation for the transfer of technology between parents and their affiliates, and payments or other compensation received by parents or affiliates from the transfer of technology to other persons.

In Section 3 of Executive Order 11961, the President delegated authority granted under the Act as concerns direct investment to the Secretary of Commerce, who has redelegated it to BEA. The benchmark survey is a census; it covers virtually the entire universe of foreign direct investment in the United States in terms of value, and is BEA's most comprehensive survey of such investment in terms of subject matter. Foreign direct investment in the United States is defined as the ownership or control, directly or indirectly, by one foreign person (foreign parent) of 10 percent or more of the voting securities of an incorporated U.S. business enterprise or an equivalent interest in an unincorporated U.S. business enterprise, including a branch.

The purpose of the benchmark survey is to obtain universe data on the financial and operating characteristics of, and on positions and transactions between, U.S. affiliates and their foreign parent groups (which are defined to include all foreign parents and foreign affiliates of foreign parents). The data are needed to measure the size and economic significance of foreign direct investment in the United States, to measure changes in such investment, and to assess its impact on the U.S. economy. Such data are generally found in enterprise-level accounting records of respondent companies. The data are disaggregated by industry of U.S. affiliate, by country and industry of foreign parent or ultimate beneficial owner, and, for selected items, by State.

The data will provide benchmarks for deriving current universe estimates of direct investment from sample data collected in other BEA surveys. In particular, they will serve as benchmarks for the quarterly direct investment estimates included in the U.S. international transactions and national income and product accounts, and for annual estimates of the foreign direct investment position in the United States and of the operations of the U.S. affiliates of foreign companies. Data from the benchmark survey on U.S. affiliates' employee compensation, profits, interest receipts and expenses, depreciation, and income and other taxes are used by BEA to compute U.S. affiliates' gross product or value added. The estimates are used to measure U.S. affiliates' share of U.S. gross domestic product and to evaluate affiliates' profitability and productivity. Data on employment by affiliates are used to

link enterprise-level data on foreign-owned companies collected in the benchmark survey to establishment-level data for the same companies collected by the Census Bureau.

It should be noted that, aside from their use in compiling the U.S. national and international economic accounts, the benchmark survey data are primarily intended as general purpose statistics. Based on past experience, areas of particular and lasting analytical and policy interest include trade in goods and services, employment and employee compensation, profitability, regional location, taxes, and technology. These areas, all of which are addressed by the proposed survey, are also ones for which the Act specifically requires data to be collected. Another area of continuing policy interest, particularly at the State and local levels, is the impact of foreign direct investment on individual States. The data in the survey disaggregated by State are intended to address needs in this area.

The forms to be used in the survey are:

1. Form BE–12(LF) (Long Form)—Report for nonbank majority-owned U.S. affiliates (a ''majority-owned'' U.S. affiliate is one in which the combined direct and indirect ownership interests of all foreign parents of the U.S. affiliate exceed 50 percent) with assets, sales or gross operating revenues, or net income greater than $125 million (positive or negative);

2. Form BE–12(SF) (Short Form)—Report for nonbank majority-owned U.S. affiliates with assets, sales or gross operating revenues, or net income greater than $10 million, but not greater than $125 million (positive or negative) and nonbank minority-owned U.S. affiliates (owned 50 percent or less) with assets, sales or gross operating revenues, or net income greater than $10 million (positive or negative). U.S. affiliates with total assets, sales or gross operating revenues, and net income between $10 million and $30 million (positive or negative) will be required to report only selected data items on the short form;

3. Form BE–12 Bank—Report for U.S. affiliates that are banks, bank holding companies, or banking and nonbanking operations of bank holding companies; and

4. Form BE–12(X)—Report for claiming exemption from filing a BE–12(LF) long form, BE–12(SF) short form, or BE–12 Bank form.

Executive Order 13132

This final rule does not contain policies with Federalism implications as that term is defined in E.O. 13132.

Executive Order 12866

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

Paperwork Reduction Act

Notwithstanding any other provisions of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule covers collections of information subject to the provisions of the PRA. The OMB has approved this collection and assigned to it OMB Control Number 0608–0042. The collection will display this control number.

The survey is expected to result in the filing of reports from approximately 17,700 respondents. The respondent burden for this collection of information is estimated to vary from 20 minutes to 715 hours per response, with an average of 11.3 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Thus, the total respondent burden of the survey is estimated at about 199,500 hours (17,700 times 11.3 hours average burden).

Comments regarding the burden estimate or any aspect of this collection of information should be addressed to: Director, Bureau of Economic Analysis (BE–1), U.S. Department of Commerce, Washington, DC 20230; and to the Office of Management and Budget, O.I.R.A., Paperwork Reduction Project 0608–0042, Washington, DC 20503 (Attention PRA Desk Officer for BEA).

Regulatory Flexibility Act

The Chief Counsel for Regulation, Department of Commerce, certified to the Chief Counsel for Advocacy, Small Business Administration, under provisions of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)) that this final rulemaking will not have a significant economic impact on a substantial number of small entities. Few small businesses as defined by the RFA are foreign owned; those that are and have total assets, sales or gross operating revenues, and net income each equal to or less than $10 million are not required to report on the BE–12 (LF) long form, BE–12(SF) short form, or BE–12 Bank form. To further reduce reporting burden for smaller companies, the reporting threshold for filing a BE–12(LF) long form has been raised to $125 million, from $100 million in the 1997 survey, and companies with total assets, sales or gross operating revenues and net income (positive or negative) between $10 million and $30 million will be required to report only selected data items on the BE–12(SF) short form. Accordingly, this action will relieve reporting burdens on small entities.

List of Subjects in 15 CFR Part 806

International transactions, Economic statistics, Foreign investment in the United States, Penalties, Reporting and record keeping requirements.

Dated: December 18, 2002.

J. Steven Landefeld,

Director, Bureau of Economic Analysis.

For the reasons set forth in the preamble, BEA amends 15 CFR Part 806 as follows:

PART 806—DIRECT INVESTMENT SURVEYS

1. The authority citation for 15 CFR Part 806 continues to read as follows:

Authority: 5 U.S.C. 301; 22 U.S.C. 3101–3108; and E.O. 11961 (3 CFR, 1977 Comp., p. 86), as amended by E.O. 12013 (3 CFR, 1977 Comp., p. 147), E.O. 12318 (3 CFR, 1981 Comp., p. 173), and E.O. 12518 (3 CFR, 1985 Comp., p. 348).

2. Section 806.17 is revised to read as follows:

§ 806.17 Rules and regulations for BE–12, Benchmark Survey of Foreign Direct Investment in the United States—2002

A BE–12, Benchmark Survey of Foreign Direct Investment in the United States will be conducted covering 2002. All legal authorities, provisions, definitions, and requirements contained in §§ 806.1 through 806.13 and § 806.15(a) through (g) are applicable to this survey. Specific additional rules and regulations for the BE–12 survey are given in this section.

(a) *Response required.* A response is required from persons subject to the reporting requirements of the BE–12, Benchmark Survey of Foreign Direct Investment in the United States—2002, contained in this section, whether or not they are contacted by BEA. Also, a person, or their agent, contacted by BEA concerning their being subject to reporting, either by sending them a report form or by written inquiry, must respond in writing pursuant to § 806.4, or electronically using BEA's Automated Survey Transmission and Retrieval (ASTAR) system. This may be accomplished by completing and returning either Form BE–12(X) within

30 days of the date it was received, if Form BE–12(LF), Form BE–12(SF), or Form BE–12 Bank do not apply, or by completing and returning Form BE–12(LF), Form BE–12(SF), or Form BE–12 Bank, whichever is applicable, by May 31, 2003.

(b) *Who must report.* A BE–12 report is required for each U.S. affiliate, *i.e.*, for each U.S. business enterprise in which a foreign person (foreign parent) owned or controlled, directly or indirectly, 10 percent or more of the voting securities if an incorporated U.S. business enterprise, or an equivalent interest if an unincorporated U.S. business enterprise, at the end of the business enterprise's 2002 fiscal year. A report is required even though the foreign person's ownership interest in the U.S. business enterprise may have been established or acquired during the reporting period. Beneficial, not record, ownership is the basis of the reporting criteria.

(c) *Forms to be filed.* (1) Form BE–12(LF)—Benchmark Survey of Foreign Direct Investment in the United States—2002 (Long Form) must be completed and filed by May 31, 2003, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 2002 fiscal year and that was majority-owned by one or more foreign parents (a ''majority-owned'' U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate exceeds 50 percent), if:

(i) It is not a bank or a bank holding company, and is not owned directly or indirectly by a U.S. bank holding company, and

(ii) On a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, one or more of the following three items for the U.S. affiliate (not just the foreign parent's share) exceeded $125 million (positive or negative) at the end of, or for, its 2002 fiscal year:

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes;

(C) Net income after provision for U.S. income taxes.

(2) Form BE–12(SF)—Benchmark Survey of Foreign Direct Investment in the United States—2002 (Short Form) must be completed and filed by May 31, 2003 by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 2002 fiscal year, if:

(i) It is not a bank or a bank holding company, and is not owned directly or indirectly by a U.S. bank holding company, and

(ii) On a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, one or more of the following three items for a majority-owned U.S. affiliate (not just the foreign parent's share) exceeded $10 million, but no one item exceeded $125 million (positive or negative) at the end of, or for, its 2002 fiscal year:

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes;

(C) Net income after provision for U.S. income taxes, or

(iii) On a fully consolidated basis, or, in the case of real estate investment, on an aggregated basis, one or more of the following three items for a minority-owned U.S. affiliate (not just the foreign parent's share) exceeded $10 million (positive or negative) at the end of, or for, its 2002 fiscal year (a ''minority-owned'' U.S. affiliate is one in which the combined direct and indirect ownership interest of all foreign parents of the U.S. affiliate is 50 percent or less):

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes;

(C) Net income after provision for U.S. income taxes.

(3) Form BE–12 Bank—Benchmark Survey of Foreign Direct Investment in the United States—2002 BANK must be completed and filed by May 31, 2003, by each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 2002 fiscal year, if:

(i) The U.S. affiliate is in ''banking'', which, for purposes of the BE–12 survey, covers business enterprises engaged in deposit banking or closely related functions, including commercial banks, Edge Act corporations engaged in international or foreign banking, U.S. branches and agencies of foreign banks whether or not they accept domestic deposits, savings and loans, savings banks, and bank holding companies, including all subsidiaries or units of a bank holding company and

(ii) On a fully consolidated basis, one or more of the following three items for the U.S. affiliate (not just the foreign parent's share) exceeded $10 million (positive or negative) at the end of, or for, its 2002 fiscal year:

(A) Total assets (do not net out liabilities);

(B) Sales or gross operating revenues, excluding sales taxes;

(C) Net income after provision for U.S. income taxes.

(4) Form BE–12(X)—Benchmark Survey of Foreign Direct Investment in the United States—2002 Claim for Exemption from Filing BE–12(LF), BE–12(SF), or BE–12 Bank must be completed and filed within 30 days of the date it was received by:

(i) Each U.S. business enterprise that was a U.S. affiliate of a foreign person at the end of its 2002 fiscal year (whether or not the U.S. affiliate, or its agent, is contacted by BEA concerning its being subject to reporting in the 2002 benchmark survey), but is exempt from filing Form BE–12(LF), Form BE–12(SF), and Form BE–12 Bank; and

(ii) Each U.S. business enterprise, or its agent, that is contacted, in writing, by BEA concerning its being subject to reporting in the 2002 benchmark survey but that is not otherwise required to file the Form BE–12(LF), Form BE–12(SF), or Form BE–12 Bank.

(d) *Aggregation of real estate investments.* All real estate investments of a foreign person must be aggregated for the purpose of applying the reporting criteria. A single report form must be filed to report the aggregate holdings, unless written permission has been received from BEA to do otherwise. Those holdings not aggregated must be reported separately.

(e) *Exemption.* (1) A U.S. affiliate as consolidated, or aggregated in the case of real estate investments, is not required to file form BE–12(LF), BE–12(SF), or Form BE–12 Bank if each of the following three items for the U.S. affiliate (not just the foreign parent's share) did not exceed $10 million (positive or negative) at the end of, or for, its 2002 fiscal year:

(i) Total assets (do not net out liabilities);

(ii) Sales or gross operating revenues, excluding sales taxes; and

(iii) Net income after provision for U.S. income taxes.

(2) If a U.S. business enterprise was a U.S. affiliate at the end of its 2002 fiscal year but is exempt from filing a completed Form BE–12(LF), BE–12(SF), or Form BE–12 Bank, it must nevertheless file a completed and certified Form BE–12(X).

(f) *Due date.* A fully completed and certified Form BE–12(LF), Form BE–12(SF), or Form BE–12 Bank is due to be filed with BEA not later than May 31, 2003. A fully completed and certified Form BE–12(X) is due to be filed with BEA within 30 days of the date it was received.

[FR Doc. 03–629 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–06–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9035]

RIN 1545–AX99

Constructive Transfers and Transfers of Property to a Third Party on Behalf of a Spouse

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations relating to the tax treatment of redemptions, during marriage or incident to divorce, of stock in a corporation owned by a spouse or former spouse.

DATES: *Effective Date:* These regulations are effective January 13, 2003.

Applicability Date: These regulations are applicable to redemptions of stock on or after January 13, 2003 that are pursuant to instruments in effect after January 13, 2003. These regulations are also applicable to redemptions before January 13, 2003 or that are pursuant to instruments in effect before January 13, 2003 if the spouses or former spouses execute a written agreement on or after August 3, 2001, that satisfies the requirements of § 1.1041–2(c)(1) or (2).

FOR FURTHER INFORMATION CONTACT: Edward C. Schwartz at (202) 622–4960 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1751. Responses to this collection of information are required for certain taxpayers to redeem stock in a corporation and utilize the special rule in § 1.1041–2(c) of these regulations.

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 control number assigned by the Office of Management and Budget.

The estimated annual burden per respondent/recordkeeper varies from 20 minutes to one hour, depending on individual circumstances, with an estimated average of 30 minutes.

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:FP:S, Washington, DC 20224, and 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.

Books or records relating to this 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

On August 3, 2001, the IRS and Treasury Department published in the **Federal Register** a notice of proposed rulemaking under section 1041 relating to certain redemptions, during marriage or incident to divorce, of stock in a corporation owned by a spouse or former spouse (REG–107151–00)(2001–2 C.B. 370)[66 FR 40659]). Written and electronic comments were solicited, and a public hearing was scheduled for December 14, 2001. Several comments were received and are discussed below. Because no requests to speak were timely received, the public hearing was cancelled. After consideration of all comments received, the proposed regulations under section 1041 are adopted as revised by this Treasury decision.

Explanation and Summary of Comments

1. Special Rules in Cases of Written Agreements Between the Spouses

The proposed regulations provided generally that if a corporation redeemed stock owned by a transferor spouse and the redemption resulted in a constructive distribution to the nontransferor spouse under applicable tax law, then the redemption would be taxable to the nontransferor spouse as if the nontransferor spouse had actually received the redemption proceeds. The proposed regulations contained a special rule in § 1.1041–2(c) allowing the spouses the option of treating the redemption as resulting in a constructive distribution to the nontransferor spouse, and therefore taxable to the nontransferor spouse, even if the redemption would not result in a constructive distribution to the nontransferor spouse under applicable tax law. The proposed regulations provided that the spouses could elect the special rule by providing in the divorce or separation instrument, or other written agreement, that the spouses must file their Federal income tax returns in a manner that reflects that the transferor spouse transferred the redeemed stock to the nontransferor spouse in exchange for the redemption proceeds and the corporation redeemed the stock from the nontransferor spouse in exchange for the redemption proceeds. The proposed regulations also provided that the special rule would be effective for written agreements executed on or after August 3, 2001, that met these requirements.

Commentators expressed concern that the proposed regulations contained no provision addressing the situation where the redemption results in a constructive distribution to the nontransferor spouse under applicable tax law, but the spouses nevertheless would like to agree that the redemption will be treated as a redemption distribution to the transferor spouse. They suggested that the final regulations expand the special rule in § 1.1041–2(c) to allow the spouses to agree in the divorce or separation instrument, or other valid written agreement, that the redemption will be taxable to the transferor spouse notwithstanding that the redemption might otherwise result in a constructive distribution to the nontransferor spouse under applicable tax law.

The IRS and Treasury Department believe that this suggestion is consistent with the policy of section 1041 and its legislative history, which is to provide flexibility to spouses and former spouses concerning the structuring of their property transfers during marriage and incident to divorce. Accordingly, this suggestion has been adopted in § 1.1041–2(c) of the final regulations. New *Example 2* in § 1.1041–2(d) illustrates the application of this new special rule.

The manner of electing the special rule also has been modified somewhat in the final regulations. Under the final regulations, the spouses can elect the special rule by expressly providing, in a divorce or separation instrument or other valid written agreement, that expressly supersedes any other instrument or agreement concerning the purchase, sale, redemption, or other disposition of the stock that is the subject of the redemption, their mutual intent concerning whether the redemption should be treated as a redemption distribution to the transferor spouse or to the nontransferor spouse. The IRS and Treasury Department will treat a divorce or separation instrument or other valid written agreement executed on or after August 3, 2001, and before May 13, 2003 that meets the

requirements of the special rule of the proposed regulations as also meeting the requirements of the special rule in paragraph (c)(2) of the final regulations.

2. Constructive Distribution Standard

Some commentators also expressed concern that taxpayers and divorce practitioners may not be aware of the situations in which a redemption of stock owned by the transferor spouse could result in a constructive distribution to the nontransferor spouse under applicable tax law. They therefore suggested that the final regulations either provide that the redemption will be treated as a redemption distribution to the transferor spouse regardless of applicable tax law, unless the spouses provide otherwise in a written agreement and file their federal income tax returns accordingly, or provide specific definitions and examples of situations in which a redemption would result in a constructive distribution to the nontransferor spouse under applicable tax law.

The IRS and Treasury Department continue to believe that the approach in the proposed regulations is appropriate. Under existing tax law, a redemption of stock owned by one shareholder may result in a constructive distribution to another shareholder if such nonredeeming shareholder has a primary and unconditional obligation to purchase the redeeming shareholder's stock. *See Rev.* Rul. 69–608 (1969–2 C.B. 42), *Wall* v. *United States*, 164 F.2d 462 (4th Cir. 1947), and *Sullivan* v. *United States*, 363 F.2d 724 (8th Cir. 1966). This ''primary and unconditional obligation'' standard applies to all redemptions, including those involving stock of closely held corporations by spouses or former spouses. A rule that provides that a redemption of stock owned by the transferor spouse will always be treated as a redemption distribution to the transferor spouse would be inconsistent with this established law. Furthermore, if taxpayers and divorce practitioners are uncertain about the application of the ''primary and unconditional obligation'' standard, they may take advantage of the special rules of § 1.1041–2(c), which permit spouses to avoid any question of whether a redemption results in a constructive distribution to the nontransferor spouse under applicable tax law relating to the primary and unconditional obligation standard by providing in a written agreement which spouse will bear the tax consequences of the redemption.

3. Withdrawal of § 1.1041–1T(c), Q&A–9

Section 1.1041–1T(c), Q&A–9, of the temporary Income Tax Regulations provides that there are three situations in which a transfer of property to a third party on behalf of a spouse or former spouse will qualify under section 1041 (provided all other requirements of that section are met): (1) if such transfer is required by the divorce or separation instrument; (2) if the transfer is pursuant to a written request of the other spouse; and (3) where the transferor spouse receives a written consent or ratification from the nontransferor spouse. Under Q&A–9, a transfer of property made to a third party on behalf of a spouse is treated first as a deemed transfer of the property made directly to the nontransferor spouse in a transfer to which section 1041 applies, and then as a deemed transfer of the property from the nontransferor spouse to the third party in a transaction to which section 1041 does not apply.

Two commentators recommended that Q&A–9 be withdrawn. They suggested that retaining that provision would lead to confusion since it would apply to all transfers of property other than stock redemptions while this final regulation would apply only to stock redemptions. Another commentator advocated replacing existing Q&A–9 with a single standard applicable to all transfers of property to third parties under which the tax consequences of the transfer would follow the transfer's form unless the spouses agreed in writing otherwise.

The ''on behalf of'' standard has not led to the same confusion and litigation outside the area of stock redemptions because, in such cases, it does not conflict with any other standard of tax law. *See, e.g., Ingham* v. *United States,* 167 F.3d 1240 (9th Cir. 1999). In addition, as discussed above, a single standard applicable to all transfers of property to third parties under which the tax consequences of the transfer would follow the transfer's form would be inconsistent with the primary and unconditional obligation standard applicable to stock redemptions under existing tax law. Consequently, the IRS and Treasury Department continue to believe that the final regulations should be limited to stock redemptions and that Q&A–9 should not be withdrawn.

4. Use of IRS Form To Designate Intent

One commentator proposed that the final regulations include a requirement that the spouses or former spouses attach a form to their Federal income tax returns showing which spouse or former spouse has the tax consequences of the redemption. After careful consideration, the IRS and Treasury Department have concluded that requiring spouses, and particularly spouses who have divorced or are divorcing, to complete and file an additional form in order to obtain the result of the special rules would unnecessarily increase the administrative burden on taxpayers and on the IRS. The divorce or separation instrument, or other valid written agreement of the spouses, provides adequate evidence of the spouses' intent regarding which spouse has the tax consequences of the redemption.

5. Legal Guardians and/or Executors of Estates of Spouses

One commentator suggested that the final regulations provide specific authority for a legal guardian of a spouse or former spouse or the executor of a spouse's or former spouse's estate to elect the application of one of the special rules of § 1.1041–2(c). However, a legal guardian, custodian, or executor of an estate that has the general authority to act on behalf of a spouse or former spouse (or his or her estate) for federal income tax purposes needs no additional or special authority to elect one of the special rules under § 1.1041–2(c). Accordingly, this suggestion has not been adopted.

6. Other Changes

In an effort to improve the clarity of the final regulations, the order of the two paragraphs in § 1.1041–2(a) has been reversed and conforming changes have been made in the remainder of the final regulations. Also, the final regulations remove the provision of the proposed regulations that would have limited their application to transactions in which both spouses or former spouses own stock immediately before or after the redemption. On further reflection, the IRS and Treasury Department believe it is appropriate to apply the regulations to all stock redemptions, regardless of whether both spouses own stock of the corporation before or after the redemption.

7. Effective Date

One comment was received suggesting that the effective date provision of the final regulations be changed to include all stock redemptions that were pending on the day the proposed regulations were issued (August 2, 2001) and to include all cases involving stock redemptions at issue on that date at any level of audit, review, appeal, or collection by the IRS or before the Tax Court or any other

federal court. It was argued that this proposal would be consistent with the current state of the law and would resolve numerous cases involving taxpayers and the IRS. Adopting this suggestion would have the effect of making the application of the final regulations retroactive. Apart from the special rules of § 1.1041–2(c), which are based upon the stated intent of the spouses, the IRS and Treasury do not believe it is appropriate to apply the final regulations retroactively. Therefore, the final regulations do not adopt this suggestion.

Special Analysis

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has 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 Internal Revenue Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Edward C. Schwartz of the Office of the Associate Chief Counsel (Income Tax and 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 602

Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME 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 § 1.1041–1T, paragraph (c) is amended by adding a sentence at the end of A–9 to read as follows:

§ 1.1041–1T Treatment of transfers of property between spouses or incident to divorce (temporary).

* * * * *

(c) * * *

A–9: * * * This A–9 shall not apply to transfers to which § 1.1041–2 applies.

* * * * *

Par. 3. Section 1.1041–2 is added to read as follows:

§ 1.1041–2 Redemptions of stock.

(a) *In general*—(1) *Redemptions of stock not resulting in constructive distributions.* Notwithstanding Q&A–9 of § 1.1041–1T(c), if a corporation redeems stock owned by a spouse or former spouse (transferor spouse), and the transferor spouse's receipt of property in respect of such redeemed stock is not treated, under applicable tax law, as resulting in a constructive distribution to the other spouse or former spouse (nontransferor spouse), then the form of the stock redemption shall be respected for Federal income tax purposes. Therefore, the transferor spouse will be treated as having received a distribution from the corporation in redemption of stock.

(2) *Redemptions of stock resulting in constructive distributions.* Notwithstanding Q&A–9 of § 1.1041–1T(c), if a corporation redeems stock owned by a transferor spouse, and the transferor spouse's receipt of property in respect of such redeemed stock is treated, under applicable tax law, as resulting in a constructive distribution to the nontransferor spouse, then the redeemed stock shall be deemed first to be transferred by the transferor spouse to the nontransferor spouse and then to be transferred by the nontransferor spouse to the redeeming corporation. Any property actually received by the transferor spouse from the redeeming corporation in respect of the redeemed stock shall be deemed first to be transferred by the corporation to the nontransferor spouse in redemption of such spouse's stock and then to be transferred by the nontransferor spouse to the transferor spouse.

(b) *Tax consequences*—(1) *Transfers described in paragraph (a)(1) of this section.* Section 1041 will not apply to any of the transfers described in paragraph (a)(1) of this section. See section 302 for rules relating to the tax consequences of certain redemptions; redemptions characterized as distributions under section 302(d) will be subject to section 301 if received from a Subchapter C corporation or section 1368 if received from a Subchapter S corporation.

(2) *Transfers described in paragraph (a)(2) of this section.* The tax consequences of each deemed transfer described in paragraph (a)(2) of this section are determined under applicable provisions of the Internal Revenue Code as if the spouses had actually made such transfers. Accordingly, section 1041 applies to any deemed transfer of the stock and redemption proceeds between the transferor spouse and the nontransferor spouse, provided the requirements of section 1041 are otherwise satisfied with respect to such deemed transfer. Section 1041, however, will not apply to any deemed transfer of stock by the nontransferor spouse to the redeeming corporation in exchange for the redemption proceeds. *See* section 302 for rules relating to the tax consequences of certain redemptions; redemptions characterized as distributions under section 302(d) will be subject to section 301 if received from a Subchapter C corporation or section 1368 if received from a Subchapter S corporation.

(c) *Special rules in case of agreements between spouses or former spouses*— (1) *Transferor spouse taxable.* Notwithstanding applicable tax law, a transferor spouse's receipt of property in respect of the redeemed stock shall be treated as a distribution to the transferor spouse in redemption of such stock for purposes of paragraph (a)(1) of this section, and shall not be treated as resulting in a constructive distribution to the nontransferor spouse for purposes of paragraph (a)(2) of this section, if a divorce or separation instrument, or a valid written agreement between the transferor spouse and the nontransferor spouse, expressly provides that—

(i) Both spouses or former spouses intend for the redemption to be treated, for Federal income tax purposes, as a redemption distribution to the transferor spouse; and

(ii) Such instrument or agreement supersedes any other instrument or agreement concerning the purchase, sale, redemption, or other disposition of the stock that is the subject of the redemption.

(2) *Nontransferor spouse taxable.* Notwithstanding applicable tax law, a transferor spouse's receipt of property in respect of the redeemed stock shall be treated as resulting in a constructive distribution to the nontransferor spouse for purposes of paragraph (a)(2) of this section, and shall not be treated as a distribution to the transferor spouse in redemption of such stock for purposes of paragraph (a)(1) of this section, if a divorce or separation instrument, or a

valid written agreement between the transferor spouse and the nontransferor spouse, expressly provides that—

(i) Both spouses or former spouses intend for the redemption to be treated, for Federal income tax purposes, as resulting in a constructive distribution to the nontransferor spouse; and

(ii) Such instrument or agreement supersedes any other instrument or agreement concerning the purchase, sale, redemption, or other disposition of the stock that is the subject of the redemption.

(3) *Execution of agreements.* For purposes of this paragraph (c), a divorce or separation instrument must be effective, or a valid written agreement must be executed by both spouses or former spouses, prior to the date on which the transferor spouse (in the case of paragraph (c)(1) of this section) or the nontransferor spouse (in the case of paragraph (c)(2) of this section) files such spouse's first timely filed Federal income tax return for the year that includes the date of the stock redemption, but no later than the date such return is due (including extensions).

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

Example 1. Corporation X has 100 shares outstanding. A and B each own 50 shares. A and B divorce. The divorce instrument requires B to purchase A's shares, and A to sell A's shares to B, in exchange for $100x. Corporation X redeems A's shares for $100x. Assume that, under applicable tax law, B has a primary and unconditional obligation to purchase A's stock, and therefore the stock redemption results in a constructive distribution to B. Also assume that the special rule of paragraph (c)(1) of this section does not apply. Accordingly, under paragraphs (a)(2) and (b)(2) of this section, A shall be treated as transferring A's stock of Corporation X to B in a transfer to which section 1041 applies (assuming the requirements of section 1041 are otherwise satisfied), B shall be treated as transferring the Corporation X stock B is deemed to have received from A to Corporation X in exchange for $100x in an exchange to which section 1041 does not apply and sections 302(d) and 301 apply, and B shall be treated as transferring the $100x to A in a transfer to which section 1041 applies.

Example 2. Assume the same facts as *Example 1,* except that the divorce instrument provides as follows: ''A and B agree that the redemption will be treated for Federal income tax purposes as a redemption distribution to A.'' The divorce instrument further provides that it ''supersedes all other instruments or agreements concerning the purchase, sale, redemption, or other disposition of the stock that is the subject of the redemption.'' By virtue of the special rule of paragraph (c)(1) of this section and under paragraphs (a)(1) and (b)(1) of this section, the tax consequences of the redemption shall be determined in accordance with its form as a redemption of A's shares by Corporation X and shall not be treated as resulting in a constructive distribution to B. See section 302.

Example 3. Assume the same facts as *Example 1,* except that the divorce instrument requires A to sell A's shares to Corporation X in exchange for a note. B guarantees Corporation X's payment of the note. Assume that, under applicable tax law, B does not have a primary and unconditional obligation to purchase A's stock, and therefore the stock redemption does not result in a constructive distribution to B. Also assume that the special rule of paragraph (c)(2) of this section does not apply. Accordingly, under paragraphs (a)(1) and (b)(1) of this section, the tax consequences of the redemption shall be determined in accordance with its form as a redemption of A's shares by Corporation X. See section 302.

Example 4. Assume the same facts as *Example 3,* except that the divorce instrument provides as follows: ''A and B agree the redemption shall be treated, for Federal income tax purposes, as resulting in a constructive distribution to B.'' The divorce instrument further provides that it ''supersedes any other instrument or agreement concerning the purchase, sale, redemption, or other disposition of the stock that is the subject of the redemption.'' By virtue of the special rule of paragraph (c)(2) of this section, the redemption is treated as resulting in a constructive distribution to B for purposes of paragraph (a)(2) of this section. Accordingly, under paragraphs (a)(2) and (b)(2) of this section, A shall be treated as transferring A's stock of Corporation X to B in a transfer to which section 1041 applies (assuming the requirements of section 1041 are otherwise satisfied), B shall be treated as transferring the Corporation X stock B is deemed to have received from A to Corporation X in exchange for a note in an exchange to which section 1041 does not apply and sections 302(d) and 301 apply, and B shall be treated as transferring the note to A in a transfer to which section 1041 applies.

(e) *Effective date.* Except as otherwise provided in this paragraph, this section is applicable to redemptions of stock on or after January 13, 2003, except for redemptions of stock that are pursuant to instruments in effect before January 13, 2003. For redemptions of stock before January 13, 2003 and redemptions of stock that are pursuant to instruments in effect before January 13, 2003, see § 1.1041–1T(c), A–9. However, these regulations will be applicable to redemptions described in the preceding sentence of this paragraph (e) if the spouses or former spouses execute a written agreement on or after August 3, 2001 that satisfies the requirements of one of the special rules in paragraph (c) of this section with respect to such redemption. A divorce or separation instrument or valid written agreement executed on or after August 3, 2001, and before May 13, 2003 that meets the requirements of the special rule in Regulations Project REG–107151–00 published in 2001–2 C.B. 370 (*see* § 601.601(d)(2) of this chapter) will be treated as also meeting the requirements of the special rule in paragraph (c)(2) of this section.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 4. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 5. In § 602.101, paragraph (b) is amended by adding an entry in numerical order to the table to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
1.1041–2	1545–1751
* * * * *	

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: December 30, 2002.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–646 Filed 1–10–03; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7436–7]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Direct final notice of deletion of the Wildcat Landfill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is publishing a direct final notice of deletion of the Wildcat Landfill Superfund Site (Site), located in Kent County, near Dover, Delaware, from the National Priorities List (NPL). The NPL, promulgated

pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), is Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final notice of deletion is being published by EPA because EPA, with the concurrence of the State of Delaware, through the Delaware Department of Natural Resources and Environmental Control, has determined that responsible parties or other persons have implemented all appropriate response actions required under CERCLA and, therefore, no further response action pursuant to CERCLA is appropriate.

DATES: This direct final deletion will be effective March 14, 2003 unless EPA receives adverse comments by February 12, 2003. If adverse comments are received, EPA will publish a timely withdrawal of the direct final deletion in the **Federal Register** informing the public that the deletion will not take effect.

ADDRESSES: Comments may be mailed to: Mr. Hilary M. Thornton, Remedial Project Manager, U.S. EPA Region III (3HS23), 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–3323.

Information Repositories: Comprehensive information about the Site is available for viewing and copying at the Site information repositories located at: U.S. EPA Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street (2nd Floor), Philadelphia, PA 19103–2029, (215) 814–5254, Monday through Friday, 8 a.m. to 5 p.m.; and in Delaware at the Delaware Department of Natural Resources and Environmental Control, Site Investigation and Restoration Branch, 391 Lukens Drive, New Castle, DE 19720, (302) 395–2600, Monday through Friday, 8 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Hilary M. Thornton, Remedial Project Manager, U.S. EPA Region III (3HS23), 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–3323 or 1–800–553–2509.

SUPPLEMENTARY INFORMATION:

Table of Contents:

I. Introduction

EPA Region III is publishing this direct final notice of deletion of the Wildcat Landfill Superfund Site from the NPL.

EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions if conditions at a deleted site warrant such action.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective March 14, 2003 unless EPA receives adverse comments by February 12, 2003 on this notice or the parallel notice of intent to delete published in the ''Proposed Rules'' section of today's **Federal Register**. If adverse comments are received within the 30-day public comment period on this notice or the notice of intent to delete, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and the deletion will not take effect. EPA will, as appropriate, prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Wildcat Landfill Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA, in consultation with the State, shall consider whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed (Hazardous Substance Superfund) response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the deleted site above levels that allow for unlimited use and unrestricted exposure, CERCLA § 121(c), 42 U.S.C. 9621(c), requires that a subsequent review of the site be conducted at least every five years after the initiation of the remedial action at the deleted site to ensure that the action remains protective of public health and the environment. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Deletion Procedures

The following procedures apply to deletion of the Site:

(1) EPA consulted with the State of Delaware on the deletion of the Site from the NPL prior to developing this direct final notice of deletion.

(2) The State of Delaware concurred with deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final notice of deletion, a notice of the availability of the parallel notice of intent to delete published today in the ''Proposed Rules'' section of the **Federal Register** is being published in a major local newspaper of general circulation at or near the Site and is being distributed to appropriate federal, state, and local government officials and other interested parties; the newspaper notice announces the 30-day public comment period concerning the notice of intent to delete the Site from the NPL.

(4) EPA placed copies of documents supporting the deletion in the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this notice or the companion notice of intent to delete also published in today's **Federal Register**, EPA will publish a timely notice of withdrawal of this direct final notice of deletion before its effective date and will prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received.

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate.

The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for further Fund-financed remedial actions, should future conditions warrant such actions.

IV. Basis for Site Deletion

The following information provides EPA's rationale for deleting the Site from the NPL:

Site Location and History

The Wildcat Landfill Superfund Site is a 44-acre landfill situated on the west bank of the St. Jones River in Kent County, Delaware approximately two and one-half miles southeast of the city of Dover. The Site was operated as a permitted sanitary landfill between 1962 and 1973, accepting both municipal and industrial wastes. Industrial wastes suspected to have been disposed of include latex waste and paint sludges. Throughout its 11 years of operation the landfill routinely violated operating and other permits issued by regulating agencies.

EPA conducted the initial Site Investigation in May 1982. EPA proposed the Site to the NPL on December 30, 1982, and added it to the NPL on September 8, 1983 (48 FR 40673).

Remedial Investigation and Feasibility Study (RI/FS)

The Delaware Department of Natural Resources and Environmental Control (DNREC) began the remedial investigation (RI) in September 1985 and began the feasibility study (FS) in November 1987. EPA and DNREC issued the RI/FS report in May 1988. The results of the RI were generally as follows:

—The primary contaminants of concern at the Site were trace metals and organic contaminants in on-site groundwater, and inorganics in surface water and sediments in the northwest pond and leachate seeps near the pond.
—The landfill contained some buried, intact drums; the contents of the drums had relatively high concentrations of organic contaminants, primarily styrene.
—Nearby domestic and commercial wells are all to the west or southwest of the Site; none of these wells was contaminated by the landfill. However, wells immediately southwest of the Site were thought to be susceptible to contamination.
—A net loss of 29 acres of wetland environment resulted from placement of the landfill on pre-existing wetlands.

The FS provided an in-depth analysis of several potential remedial alternatives. The FS concluded that if no action were taken there would be a potential threat to human health and the environment through dermal contact with landfill contents or leachate seeps. There were also potential risks associated with future releases of contaminants from the landfill into the groundwater and, subsequently, into the surface water. The FS provided a detailed analysis of the following alternatives: (1) No action; (2) institutional controls and monitoring; (3) institutional and surface controls; (4a) containment with a soil cap; and (4b) containment with a soil/clay cap. The FS also analyzed EPA and DNREC's preferred alternative, which was a combination of certain elements of the above alternatives. No response activities using CERCLA removal authority were conducted at the Site.

Record of Decision (ROD) Findings

The Site was divided into two Operable Units, with Operable Unit 1 (OU1) including the landfill proper, and Operable Unit 2 (OU2) including the northwest pond and the so-called racetrack pond or replacement pond, which was created southeast of the landfill. EPA issued a Record of Decision (ROD) for OU1 on June 29, 1988. The ROD for OU1 included:

—Implementation of institutional controls (including groundwater management zones and restrictions on use of the property);
—Posting warning signs;
—Replacement of shallow water supply wells adjacent to the Site;
—Covering exposed wastes on the landfill with soil;
—Off-site disposal of drums;
—Installing one additional groundwater monitoring well; and
—Monitoring of the shallow (Columbia) aquifer.

On November 28, 1988, EPA issued a ROD for OU2. The ROD for OU2 included:

—Draining and back-filling the northwest pond;
—Creating a replacement pond (racetrack pond) to be joined with the existing deepwater pond located southeast of the landfill;
—Installing one monitoring well upgradient of the new racetrack pond to monitor the landfill; and
—Implementation of institutional controls to ensure that the integrity of the newly-created racetrack pond and the filled northwest pond is maintained.

After a period of negotiations with the potentially responsible parties, the State, EPA, and a group of Settlors entered into a Consent Decree for implementation of the Remedial Design/Remedial Action for both operable units. In December 1989 the Settlors submitted Remedial Design (RD) plans and specifications for regulatory review. Black and Veatch Science and Technology Corporation prepared the engineering plans and specifications on behalf of the Settlors. The U.S. Army Corps of Engineers reviewed these plans and provided comments to EPA. In February 1991, the State and EPA granted conditional approval of a revised set of RD plans and specifications.

Remedial Action Activities

The Settlors proposed Sevenson Environmental Services as the Remedial Action (RA) Contractor. EPA, after consultation with the State and the U.S. Army Corps of Engineers, approved the use of Sevenson. The Settlors started construction of the RA for both operable units in July 1991. The U.S. Army Corps of Engineers provided field oversight of the RA for EPA.

During construction a larger-than-anticipated number of drums were discovered along the northern and eastern fringes of the landfill. The State, EPA, and the Settlors subsequently developed a management plan for staging, sorting, and disposing of the unanticipated drums. The State established and continues to maintain a Groundwater Management Zone for the Site and certain areas adjacent to the Site. A pre-final construction inspection was conducted by the State, EPA, and the Settlors on April 1, 1992. The final construction inspection followed on May 14, 1992.

On April 26, 2002, documents entitled ''Environmental Protection Easement and Declaration of Restrictive Covenants'' were recorded at the Office of Recorder of Deeds for Kent County, Delaware, for each of the parcels comprising the Site in order to implement the institutional controls required by the OU1 and OU2 RODs.

The RA for OU1 and OU2 eliminated the principal threat posed by the Site by reducing the potential for direct contact with the contents of the landfill and the sediments of the northwest pond. The RA also reduced the potential for erosion of landfill contents into the St. Jones River. Finally, the RA provides for monitoring of the groundwater in the vicinity of the landfill to ensure the continued effectiveness of the RA.

Operation and Maintenance

Operation and maintenance (O&M) activities at the Site include annual groundwater monitoring and an annual inspection. The annual inspection looks at the condition of a variety of items to ensure they are operating as intended so the remedy remains protective. Items inspected include: Site security and access (fences, gates, locks, and roads); the landfill surface, including both capped and uncapped areas; monitoring wells; the riverbank, looking for evidence of storm damage or erosion; and the replacement pond.

Groundwater monitoring data show a clear overall downward trend in contaminant levels. The levels of some contaminants in some wells (notably lead and benzene in MW–4) remain sufficiently high to merit continued monitoring. EPA will continue groundwater monitoring until all compounds are at levels that allow for unlimited use and unrestricted exposure.

Five-Year Review

In 1996, EPA conducted its first Five-Year Review of the Site to determine if the remedy was protective of human health and the environment. There were two known deficiencies that affected the protectiveness of the remedy at the time of the Five-Year Review: (1) The institutional controls called for in the RODs were not yet fully implemented; and (2) there were unresolved issues related to who would perform O&M at the Site and for how long. Because of these deficiencies, EPA concluded that the remedy was not protective at that time. EPA conducted its second Five-Year Review in 2001. Progress had been made on resolving the two deficiencies, but they were still present. EPA again concluded the remedy was not protective at that time. Both deficiencies have since been resolved, and EPA has since concluded that the remedy is fully protective of human health and the environment.

Since waste is being left in place at the landfill, EPA will continue to conduct Five-Year Reviews at the Site. The next Five-Year Review is scheduled for October 2006.

Site Redevelopment

The Site has limited commercial redevelopment potential, but would make an excellent park, nature preserve, or open space greenway, subject to compliance with the institutional controls and operation and maintenance requirements. The landfill waste remains in place and must not be disturbed by construction activities. No wells, except monitoring wells, may be drilled in the landfill area. EPA and DNREC will review the safety of any proposed redevelopment.

Community Involvement

Public participation activities have been satisfied as required in CERCLA § 113(k), 42 U.S.C. 9613(k), and CERCLA § 117, 42 U.S.C. 9617. Documents in the deletion docket which EPA relied on for recommendation of the deletion from the NPL are available to the public in the information repositories.

V. Deletion Action

One of the criteria for site deletion, set forth in § 300.425(e)(1)(i) of the NCP, specifies that EPA may delete a site from the NPL if ''[r]esponsible parties or other persons have implemented all appropriate response actions required.'' EPA, with the concurrence of the State of Delaware, believes that this criterion has been met. Therefore, EPA is deleting the Site from the NPL.

Because EPA considers this action to be noncontroversial and routine, EPA is taking it without prior publication of a notice of intent to delete. This action will be effective March 14, 2003 unless EPA receives adverse comments by February 12, 2003 on this notice or the parallel notice of intent to delete published in the ''Proposed Rules'' section of today's **Federal Register**. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of deletion before the effective date of the deletion and it will not take effect. EPA will also prepare a response to comments and continue with the deletion process on the basis of the notice of intent to delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 20, 2002.

Donald S. Welsh,

Regional Administrator, EPA Region III.

For the reasons set out in the preamble, 40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to Part 300 is amended under Delaware (''DE'') by removing the site entry for ''Wildcat Landfill, Dover.''

[FR Doc. 03–515 Filed 1–10–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA–D–7533]

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Interim rule.

SUMMARY: This interim rule lists communities where modification of the base (1% annual chance) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base flood elevations for new buildings and their contents.

DATES: These modified base flood elevations are currently in effect on the dates listed in the table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect prior to this determination for each listed community.

From the date of the second publication of these changes in a newspaper of local circulation, any person has 90 days in which to request through the community that the Administrator reconsider the changes. The modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (email) *mike.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: The modified base flood elevations are not listed for each community in this interim rule. However, the address of

the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection is provided.

Any request for reconsideration must be based upon knowledge of changed conditions, or upon new scientific or technical data.

The modifications are made pursuant to section 201 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the National Flood Insurance Program. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This interim rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and name of newspaper where notice was published	Chief executive officer of community	Effective date of Pmodification	Community No.
Alabama: Madison	City of Madison	November 20, 2002; November 27, 2002; *Madison County Record*.	The Honorable Jan Wells, Mayor of the City of Madison, 100 Hughes Road, Madison, Alabama 35758.	November 12, 2002	010308 D
Florida: Polk	Unincorporated Areas	October 16, 2002; October 23, 2002; *The Ledger*.	Mr. Jim W. Keene, Polk County Manager, 330 West Church Street, P.O. Box 9005, Drawer CA01, Bartow, Florida 33831–9005.	January 22, 2003	120261 F
Massachusetts: Barnstable	Town of Falmouth	October 29, 2002; November 5, 2002; *Cape Cod Times*.	Mr. Robert L. Whritenour, Jr., Falmouth Town Administrator, 59 Town Hall Square, Falmouth, Massachusetts 02540.	October 22, 2002	255211 F
Minnesota: Hennepin	City of Golden Valley	November 21, 2002; November 28, 2002; *Sun-Post*.	The Honorable Linda Loomis, Mayor of the City of Golden Valley, Golden Valley City Hall, 7800 Golden Valley Road, Golden Valley, Minnesota 55427.	November 12, 2002	270162
Mississippi: Rankin	Unincorporated Areas	November 27, 2002; December 4, 2002; *Rankin County News*.	Mr. Ken Martin, President of the Rankin County Board of Supervisors, 211 East Government Street, Brandon, Mississippi 39042.	November 20, 2002	280142 C
New Hampshire: Grafton	Town of Plymouth	November 14, 2002; *The Record Enterprise*.	Mr. John Tucker, Chairman of the Town of Plymouth, Board of Selectmen, Plymouth Town Hall, 6 Post Office Square, Plymouth, Massachusetts 03264.	December 14, 2002	330072 C
New Jersey: Atlantic	City of Brigantine	November 29, 2002; December 6, 2002 *Beachcomer News*.	Mr. George McDermott, Brigantine City Manager, Brigantine Muncipal Building, 1417 West Brigantine Avenue, Brigantine, New Jersey 08203.	November 20, 2002	345286 B
New York: Herkimer	Village of Herkimer	November 15, 2002; *Evening Telegram*.	The Honorable Mark Ainsworth, Mayor of the Village of Herkimer, 120 Green Street, Herkimer, New York 13350.	May 5, 2003	360307 C
Pennsylvania: Lackawanna	Borough of Blakely	October 25, 2002; November 1, 2002; *Scranton Times*.	The Honorable Robert Klinko, Mayor of the Borough of Blakely, 6262 Jenkins Street, Peckville, Pennsylvania 18452.	October 16, 2002	420525 A
Virginia: Fauquier	Unincorporated Areas	November 7, 2002; November 14, 2003; *Fauquier Citizen*.	Mr. G. Robert Lee, Fauquier County Administrator, 40 Culpeper Street, Warrenton, Virginia 20186.	February 13, 2003	510055 A
Virginia: Fauquier	Unicorporated Areas	November 14, 2002; November 21, 2002; *Fauquier Citizen*.	Mr. G. Robert Lee, Fauquier County Administrator, 40 Culpeper Street, Warrenton, Virginia 20816.	February 20, 2003	510055 A

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: December 31, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–608 Filed 1–10–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

Changes in Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: Modified base (1% annual chance) flood elevations are finalized for the communities listed below. These modified elevations will be used to calculate flood insurance premium rates for new buildings and their contents.

EFFECTIVE DATES: The effective dates for these modified base flood elevations are indicated on the following table and revise the Flood Insurance Rate Map(s) (FIRMs) in effect for each listed community prior to this date.

ADDRESSES: The modified base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (email) *mike.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency makes the final determinations listed below of modified base flood elevations for each community listed. These modified elevations have been published in newspapers of local circulation and 90 days have elapsed since that publication. The Administrator has resolved any appeals resulting from this notification.

The modified base flood elevations are not listed for each community in this notice. However, this rule includes the address of the Chief Executive Officer of the community where the modified base flood elevation determinations are available for inspection.

The modifications are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.*, and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The modified base flood elevations are the basis for the floodplain management measures that the community is required to either adopt or to show evidence of being already in effect in order to qualify or to remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities.

These modified elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

The changes in base flood elevations are in accordance with 44 CFR 65.4.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are required to maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 65

Flood insurance, Floodplains, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 65 is amended to read as follows:

PART 65—[AMENDED]

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

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 65.4 [Amended]

2. The tables published under the authority of § 65.4 are amended as follows:

State and County	Location	Dates and name of newspaper where notice was published	Chief Executive officer of community	Effective date of modification	Community number
Alabama: Lee—(FEMA Docket No. D–7525).	City of Auburn	August 1, 2002; August 8, 2002; *Opelika-Auburn News*.	The Honorable Bill Ham, Jr., Mayor of the City of Auburn, 144 Tichenor Avenue, Auburn, Alabama 36830.	May 20, 2002	010144 E
Alabama: Jefferson—(FEMA Docket No. D–7525).	Unincorporated Areas	May 17, 2002; May 22, 2002; *The Birmingham News*.	Mr. Gary White, President of the Jefferson County, Commission Courthouse, Room 680A, 716 Richard Arrington Jr., Boulevard North, Birmingham, Alabama 35203.	August 21, 2002	010217 E
Alabama: Mobile—(FEMA Docket No. D–7525).	Unincorporated Areas	April 17, 2002; April 24, 2002; *Mobile Register*.	Mr. Joe W. Ruffer,Director of Public Works, Mobile Government Plaza, 205 Government Street, Mobile, Alabama 36604–1600.	April 10, 2002	015008 J
Connecticut: Fairfield—(FEMA Docket No. D–7527).	City of Danbury	June 6, 2002; June 13, 2002; *The News-Times*.	The Honorable Mark D. Boughton, Mayor of the City of Danbury, 155 Deer Hill Avenue, Danbury, Connecticut 06810.	September 12, 2002	090004 B
Delaware: New Castle—(FEMA Docket No. D–7525).	Unincorporated Areas	March 25, 2002; April 1, 2002; *The News Journal*.	Mr. Thomas P. Gordon, New Castle County Executive, Castle County Government Center, 87 Reads Way, New Castle, Delaware 19720.	July 1, 2002	105085 D
Florida: Clay—(FEMA Docket No. D–7527).	Unincorporated Areas	July 24, 2002; July 31, 2002; *The Florida Times-Union*.	Mr. Robert M. Wilson, Clay County Manager, P.O. Box 1366, Green Cove Springs, Florida 32043.	July 17, 2002	120064 D
Florida: Lee—(FEMA Docket No. D–7527).	Unincorporated Areas	June 28, 2002; July 5, 2002; *News-Press*.	Mr. Robert Janes, Chairman of the Lee County, Board of Commissioners, P.O. Box 398, Fort Myers, Florida 33902–0398.	June 21, 2002	125124 D&E
Florida: Polk—(FEMA Docket No. D–7527).	City of Lakeland	April 3, 2002; April 10, 2002; *The Ledger*.	Mr. Roger D. Haar, City Manager for the City of Lakeland, Lakeland City Hall, 228 South Massachusetts Avenue, Lakeland, Florida 33801–5086.	March 27, 2002	120267 F
Florida: Polk—(FEMA Docket No. D–7527).	Unincorporated Areas	August 1, 2002; August 8, 2002; *The Ledger*.	Mr. Jim W. Keene, Polk County Manager, 330 West Church Street, P.O. Box 9005, Drawer CA01, Bartow, Florida 33831–9005.	May 14, 2002	120261 F
Georgia:Fulton—(FEMA Docket No. D–7525).	City of Alpharetta	March 28, 2002; April 4, 2002; *The Revue & News*.	The Honorable Charles E. Martin, Mayor of the City of Alpharetta, City Hall, Two South Main Street, Alpharetta, Georgia 30004.	March 21, 2002	130084 D
Kentucky: Daviess—(FEMA Docket No. D–7527).	City of Owensboro	August 5, 2002; August 12, 2002; *Messenger-Inquirer*.	The Honorable Waymond O. Morris, Mayor of the City of Owensboro, P.O. Box 10003, Owensboro, Kentucky 42302–9003.	November 11, 2002	210063 C
Maine: Penobscot—(FEMA Docket No. D–7527).	City of Brewer	June 4, 2002; June 11, 2002; *Bangor Daily News*.	The Honorable Michael Celli, Mayor of the City of Brewer, City Hall, 80 North Main Street, Brewer, Maine 04412.	September 10, 2002	230104 B

Maryland: Frederick—(FEMA Docket No. D–7527).	Unincorporated Areas	July 22, 2002; July 29, 2002; *Frederick News Post*.	Mr. Ron Hart, Frederick County Manager, 12 East Church Street, Frederick, Maryland 21701.		240027 A
Michigan: Oakland—(FEMA Docket No. D–7527).	City of Novi	July 4, 2002; July 11, 2002; *Novi News*.	The Honorable Richard Clark, Mayor of the City of Novi, Civic Center, 45175 West Ten Mile Road, Novi, Michigan 48375–3024.	June 25, 2002	260175 C
Michigan: Macomb—(FEMA Docket No. D–7527).	City of Sterling Heights	June 9, 2002; June 16, 2002; *The Source*.	The Honorable Richard J. Notte, Mayor of the City of Sterling Heights, P.O. Box 8009, 40555 Utica Road, Sterling Heights, Michigan 48311–8009.	July 3, 2002	260128 E
Mississippi: Lafayette—(FEMA Docket No. D–7527).	City of Oxford	May 22, 2002; May 29, 2002; *Oxford Eagle*.	The Honorable Richard Howorth, Mayor of the City of Oxford, City Hall, 107 Courthouse Square, Oxford, Mississippi 38655.	August 21, 2002	280094 B
North Carolina: Durham—(FEMA Docket No. D–7525).	City of Durham	June 4, 2002; June 11, 2002; *The Herald-Sun*.	The Honorable William V. Bell, Mayor of the City of Durham, 101 City Hall Plaza, Durham, North Carolina 27701.	September 10, 2002	370086 G
North Carolina: Durham—(FEMA Docket No. D–7525).	Unincorporated Areas	June 4, 2002; June 11, 2002; *The Herald-Sun*.	Mr. Michael M. Ruffin, Durham County Manager, 200 East Main Street, 2nd Floor, Durham, North Carolina 27701.	September 10, 2002	370085 G
North Carolina: Wake—(FEMA Docket No. D–7529).	Town of Wake Forest	May 9, 2002; May 16, 2002; *The Wake Weekly*.	The Honorable George C. Mackie, Jr., Mayor of the Town of Wake Forest, 401 Elm Street, Wake Forest, North Carolina 27587.	May 2, 2002	370244 E
Ohio: Franklin—(FEMA Docket No. D–7527).	Unincorporated Areas	June 5, 2002; June 12, 2002; *Daily Reporter*.	Ms. Arline Shoemaker, President, Franklin County Board of Commissioners, 373 South High Street, 26th Floor, Columbus, Ohio 43215.	September 11, 2002	390167 G
Ohio: Franklin—(FEMA Docket No. D–7529).	City of Grove City	June 5, 2002; June 12, 2002; *Grove City Record*.	The Honorable Cheryl Grossman, Mayor of the City of Grove City, 4035 Broadway, Grove City, Ohio 43123.	September 11, 2002	390173 G
Ohio: Franklin—(FEMA Docket No. D–7527).	Village of Urbancrest	June 5, 2002; June 12, 2002; *Grove City Record*.	The Honorable Marlin R. West, Mayor of the Village of Urbancrest, 3357 Central Avenue, Urbancrest, Ohio 43123.	September 11, 2002	390893 G
Pennsylvania: Chester—(FEMA Docket No. D–7523).	Township of East Bradford	April 25, 2002; May 2, 2002; *Daily Local News*.	Mr. John T. Jordan, Chairman of the Township of East Bradford Board of Supervisors, 666 Copeland School Road, West Chester, Pennsylvania 19380.	August 1, 2002	420276 D
Pennsylvania: Montgomery—(FEMA Docket No. D–7525).	Borough of Emsworth	May 29, 2002; June 5, 2002; *The Citizen*.	The Honorable Keith Johnston, Mayor of the Borough of Emsworth, 171 Center Avenue, Pittsburgh, Pennsylvania 15202.	September 4, 2002	420034 D
Pennsylvania: Allegheny—(FEMA Docket No. D–7527).	City of Pittsburgh	July 9, 2002; July 16, 2002; *Pittsburgh Post Gazette*.	The Honorable Thomas Murphy, Mayor of the City of Pittsburgh, 5th Floor, City-County Building, 414 Grant Street, Pittsburgh, Pennsylvania 15219.	October 15, 2002	4200063

State and County	Location	Dates and name of newspaper where notice was published	Chief Executive officer of community	Effective date of modification	Community number
Puerto Rico (FEMA Docket No. D–7525).	Commonwealth	May 31, 2002; June 7, 2002; *The San Juan Star*.	The Honorable Sila Maria Calderon, Governor of the Commonwealth of Puerto Rico, Office of the Governor, P.O. Box 9020082, San Juan, Puerto Rico 00901.	September 6, 2002	720000 E
Rhode Island: Washington—(FEMA Docket No. D–7527).	Town of Westerly	June 19, 2002; June 26, 2002; *The Westerly Sun*.	Mr. Samuel Azzinaro, Westerly Town Council President, Westerly Town Hall, 45 Broad Street, Westerly, Rhode Island 02891.	June 12, 2002	445410 E
Tennessee: Fayette—(FEMA Docket No. D–7527).	Unincorporated Areas	May 22, 2002; May 29, 2002; *The Fayette Falcon*.	The Honorable Jim Voss, Mayor of Fayette County, P.O. Box 218, Somerville, Tennessee 38068.	August 28, 2002	470352 B
Tennessee: Sumner and Davison—(FEMA Docket No. D–7525).	City of Goodlettsville	August 5, 2002; August 12, 2002; *The Tennessean*.	The Honorable Bobby T. Jones, Mayor of the City of Goodlettsville, 105 South Main Street, Goodlettsville, Tennessee 37072.	November 22, 2002	470287 F
Virginia: Augusta—(FEMA Docket No. D–7527).	Unincorporated Areas	May 28, 2002; June 4, 2002; *The Daily News Record*.	Mr. Patrick J. Coffield, Augusta County Administrator, P.O. Box 590, Verona, Virginia 24482–0590.	September 3, 2002	510013 B
Virginia: Henrico—(FEMA Docket No. D–7527).	Unincorporated Areas	July 19, 2002; July 26, 2002; *The Richmond Times*.	Mr. James B. Donati, Jr., Chairman of the Henrico County, Board of Supervisors, P.O. Box 27032, Richmond, Virginia 23273.	October 25, 2002	510077 B
Virginia: Loudoun—(FEMA Docket No. D–7525).	Unincorporated Areas	June 12, 2002; June 19, 2002; Loudoun Times Mirror.	Mr. Kirby Bowers, Loudoun County Administrator, 1 Harrison Street, S.E., 5th Floor, P.O. Box 7000, Leesburg, Virginia 20177–7000.	June 3, 2002	510090 D
Virginia: Loudoun—(FEMA Docket No. D–7525).	Unincorporated Areas	May 15, 2002; May 22, 2002; *Loudoun Times Mirror*.	Mr. Kirby Bowers, Loudoun County Administrator, 1 Harrison Street, S.E., 5th Floor, P.O. Box 7000, Leesburg, Virginia 20177–7000.	August 21, 2002	510090 D

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: December 31, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–607 Filed 1–10–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *mike.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of Flooding and Location	#Depth in feet above ground. ÷Elevation in feet (NGVD) ●Elevation in feet (NAVD)
DELAWARE	
Kent County (Unincorporated Areas) (FEMA Docket No. D–7536)	
Andrews Lake:	
Approximately 1,525 feet downstream of Andrews Lake Road	*9
Approximately 1.25 miles upstream of Andrews Lake Road	*22
Kent County (Unincorporated Areas)	
Beaverdam Ditch:	
At confluence with Tidy Island Creek	*46
Approximately 90 feet upstream of Taraila Road	*57
Kent County (Unincorporated Areas)	
Browns Branch North:	
At the downstream side of the northbound lane of U.S. Route 13	*42
At the downstream side of the southbound lane of U.S. Route 13	*43
Kent County (Unincorporated Areas)	
Browns Branch South:	
At Route 431	*41
Approximately 1.04 miles upstream of Route 431	*48
Kent County (Unincorporated Areas), City of Dover	
Cahoon Branch:	
At confluence with Maidstone Branch	*32
Approximately 50 feet downstream of Navit Road	*58
Kent County (Unincorporated Areas)	
Choptank River:	
Approximately 1.33 miles downstream of Still Road	*22
Approximately 0.5 mile upstream of confluence of Culbreth Marsh Ditch	*37
Kent County (Unincorporated Areas)	
Coursey Pond:	
Approximately 1,030 feet downstream of Canterbury Road	*9
Approximately 1.3 miles upstream of Canterbury Road	*13
Kent County (Unincorporated Areas)	
Cow Marsh Creek:	
At confluence with Choptank River	*26

Source of Flooding and Location	#Depth in feet above ground. ÷Elevation in feet (NGVD) ●Elevation in feet (NAVD)
At confluence of Willow Grove Prong	*51
Culbreth Marsh Ditch:	
At confluence with Choptank River	*37
Approximately 300 feet upstream of Lucks Drive	*49
Kent County (Unincorporated Areas), Town of Smyrna, Town of Leipsic, City of Milford, City of Dover, Town of Frederica, Town of Boweres, Town of Little Creek	
Delaware Bay:	
At intersection of Big Stone Beach Road and Scotts Corner Road	*9
Approximately 375 feet north of intersection of North Street and Pearson Avenue Bowers, Woodland Beach	*13
Kent County (Unincorporated Areas), Town of Smyrna, Town of Clayton	
Duck Creek:	
Approximately 1,660 feet downstream of Smyrna Landing Road	*9
Approximately 300 feet upstream of State Route 15	*29
Kent County (Unincorporated Areas), City of Dover	
Fork Branch:	
At confluence with St. Jones River	*27
Approximately 100 feet upstream of Shaws Corner Road	*64
Kent County (Unincorporated Areas)	
Green Branch:	
At confluence with Marshyhope Creek	*41
Approximately 1,200 feet upstream of Layton Corners Road	*56
Kent County (Unincorporated Areas), Town of Smyrna	
Green's Branch:	
Approximately 500 feet downstream of Main Street	*9
At CONRAIL	*27
Kent County (Unincorporated Areas)	
Horsepen Arm:	
At confluence with Marshyhope Creek	*54
Approximately 650 feet upstream of Park Brown Road	*58
Kent County (Unincorporated Areas), City of Dover	
Little River:	
Just downstream of State Route 8	*9
Approximately 0.7 mile upstream of West Wind Drive	*25
Kent County (Unincorporated Areas), City of Dover	
Maidstone Branch:	
At the confluence with St. Jones River	*27
Approximately 750 feet upstream of Sharon Hill Road	*49
Kent County (Unincorporated Areas).	
Marshyhope Creek:	
At the downstream county boundary	*35
At the confluence of Horsepen Arm	*54
Kent County (Unincorporated Areas)	
Marshyhope Ditch:	
At the confluence with Marshyhope Creek	*54
Approximately 500 feet upstream of Park Brown Road	*56
Kent County (Unincorporated Areas)	
McColley Pond:	
Approximately 1,325 feet downstream of Canterbury Road	*9
Approximately 1.4 miles upstream of Canterbury Road	*12
Kent County (Unincorporated Areas)	
McGinnis Pond:	
Approximately 1,125 feet downstream of McGinnis Pond Road	*9
Approximately 1.0 mile upstream of McGinnis Pond	*20
Kent County (Unincorporated Areas), Town of Smyrna	
Mill Creek:	
At U.S. Route 13	*9
At State Route 137	*17
Kent County (Unincorporated Areas), City of Dover	
Morgan Branch:	
Approximately 0.4 mile upstream of the confluence with Little River	*10
Approximately 1.5 miles upstream of Little Creek Road	*17
Kent County (Unincorporated Areas)	
Penrose Branch:	
Approximately 750 feet upstream of Sharon Hill Road	*49
Approximately 1.9 miles upstream of Pearsons Corner Road	*66
Kent County (Unincorporated Areas), Town of Clayton	
Providence Creek:	
Approximately 300 feet upstream of U.S. Route 15	*29
Approximately 300 feet upstream of Alley Mill Road	*43
Kent County (Unincorporated Areas), City of Dover	
Puncheon Branch:	
Approximately 0.5 mile downstream of U.S. Route 113A	*9
Approximately 900 feet downstream of U.S. Route 113A	*9
Kent County (Unincorporated Areas), City of Dover	
St. Jones River:	
Approximately 1,170 feet downstream of Court Street	*10
Approximately 1.11 miles upstream of West College Square	*27
Kent County (Unincorporated Areas)	
Tappahanna Ditch:	
At the confluence with Tidy Island Creek	*46
Approximately 200 feet upstream of U.S. Route 8	*64
Kent County (Unincorporated Areas), City of Milford	
Tantrough Branch:	
At City of Milford corporate limits	*15
Approximately 0.62 mile upstream of Blairs Pond Dam	*34
Kent County (Unincorporated Areas)	
Tidy Island Creek:	
Approximately 3,300 feet downstream of Mahan Corner Road	*44
At the confluence of Beaverdam Ditch and Tappahanna Ditch	*46
Kent County (Unincorporated Areas)	
Willow Grove Prong:	
At confluence with Cow Marsh Creek	*51
Approximately 850 feet upstream of Honeysuckle Road	*57
Kent County (Unincorporated Areas)	
Maps available for inspection at the Kent County Planning Division, 414 Federal Street, Dover, Delaware.	
Town of Bowers	
Maps available for inspection at the North Bowers Fire Hall, Rural Drive #1 Bowers, Frederica, Delaware.	
Town of Clayton	
Maps available for inspection at the Clayton Town Hall, 105 Main Street, Clayton, Delaware.	
City of Dover	
Maps available for inspection at the Dover City Hall, 15 East Lockerman Street, Dover, Delaware.	
Town of Frederica	
Maps available for inspection at the Frederica Town Hall, David Street, Frederica, Delaware.	
Town of Leipsic	
Maps available for inspection at Leipsic Town Hall, 192 Front Street, Leipsic, Delaware.	
Town of Little Creek	
Maps available for inspection at the Little Creek Town Hall, 204 Main Street, Little Creek, Delaware.	

Source of Flooding and Location	#Depth in feet above ground. ÷Elevation in feet (NGVD) ●Elevation in feet (NAVD)
City of Milford	
Maps available for inspection at the Milford City Hall, 201 South Walnut Street, Milford, Delaware.	
Town of Smyrna	
Maps available for inspection at the Smyrna Town Hall, 27 South Market Street, Plaza, Smyrna, Delaware.	
FLORIDA	
Charlotte County (Unincorporated Areas) (FEMA Docket No. D–7530)	
Auburn Waterway:	
At the confluence with Pellam Waterway	*8
At Hillsborough Boulevard	*12
Broad Creek:	
At the upstream side of Copley Drive	*9
Approximately 1 mile upstream of Airport Road	*12
Broad Creek Tributary:	
At the confluence with Broad Creek	*10
Just upstream of Piper Road	*23
Courtland Waterway:	
At the confluence with Auburn Waterway	*8
At Hillsborough Boulevard	*13
Crestview-Lionheart Connector Waterway:	
At the confluence with Crestview Waterway	*16
At divergence from Lionheart Waterway	*16
Crestview Waterway:	
At the confluence with West Spring Lake	*9
At Hillsborough Boulevard	*16
Delavan Waterway:	
At the confluence with Fordham Waterway	*21
Approximately 475 feet upstream of Comstock Boulevard	*21
Elkcam Waterway:	
Approximately 1,900 feet upstream of U.S. Route 41	*9
Approximately 1.2 miles upstream of Peachland Boulevard	*19
Fordham Waterway:	
Approximately 1,750 feet upstream of U.S. Route 41	*9
Approximately 1.0 mile upstream of Peachland Boulevard	*21
Kings Highway East Outfall:	
At the downstream side of Westchester Boulevard	*9
Approximately 780 feet upstream of Suncoast Boulevard	*13
Kings Highway West Outfall:	
Approximately 150 feet upstream of Westchester Boulevard	*10
Approximately 1,080 feet upstream of MacDougall Avenue	*16
Lionheart Waterway:	
At the county boundary	*19
Approximately 170 feet upstream of U.S. Route 41	*9
Newgate Waterway:	
Approximately 1.2 miles upstream of the confluence with Early Waterway	*8
Approximately 2.2 miles upstream of Jenning's Boulevard	*10
Niagara Waterway:	
At the confluence with Fordham Waterway	*9
At Peachland Boulevard	*19
Pellam Waterway:	
Approximately 2.1 miles upstream of Holly Avenue	*8
At Hillsborough Boulevard	*14
Pelton Circle Waterway:	
At the confluence with Crestview Waterway	*16
Approximately 0.5 mile upstream of confluence with Crestview Waterway	*16
Rampart Outfall:	
Approximately 0.3 mile upstream of Harborview Road	*9
Just upstream of Rampart Boulevard	*22
Sunset Waterway:	
At the confluence with Lionheart Waterway	*13
At the County boundary	*20
Yale Waterway:	
At the confluence with Fordham Waterway	*13
Approximately 475 feet upstream of Sheehan Boulevard	*14
Gulf of Mexico:	
Approximately 1,200 feet southwest of the intersection of Gulf Boulevard and South Gulf Boulevard	*16
Approximately 200 feet east of the intersection of County Route 775 and Cap Haza Drive	*10
Charlotte County (Unincorporated Areas)	
Maps available for inspection at the Charlotte County Community Development Department, Charlotte County Administration Building, 18500 Murdock Circle, Port Charlotte, Florida.	
PENNSYLVANIA	
Allegheny County (All Jurisdictions)	
Borough of Crafton, Township of Robinson, Borough of Rosslyn Farms, and Borough of Thornburg (FEMA Docket No. D–7536).	
Chartiers Creek:	
At the upstream side of Ingram Avenue	*748
Approximately 300 feet downstream of Chartiers Avenue	*754
Borough of Crafton	
Maps available for inspection at the Crafton Borough Hall, 100 Stotz Avenue, Pittsburgh, Pennsylvania.	
Township of Robinson	
Maps available for inspection at Robinson Township Municipal Building, 1000 Church Hill Road, Pittsburgh, Pennsylvania.	
Borough of Rosslyn Farms	
Maps available for inspection at Rosslyn Farms Borough Municipal Office, 421 Kings Highway, Carnegie, Pennsylvania.	
Borough of Thornburg	
Maps available for inspection at the Thornburg Borough Office, 235 Tech Road, Pittsburgh, Pennsylvania.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: December 31, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–606 Filed 1–10–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) flood elevations and modified base flood elevations are made final for the communities listed below. The base flood elevations and modified base flood elevations are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATES: The date of issuance of the Flood Insurance Rate Map (FIRM) showing base flood elevations and modified base flood elevations for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated on the table below.

ADDRESSES: The final base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *mike.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) makes final determinations listed below of base flood elevations and modified base flood elevations for each community listed. The proposed base flood elevations and proposed modified base flood elevations were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed base flood elevations and proposed modified base flood elevations were also published in the **Federal Register**.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

The Agency has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and Flood Insurance Rate Map available at the address cited below for each community.

The base flood elevations and modified base flood elevations are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator, Federal Insurance and Mitigation Administration, certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. **Federal Register**This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of Flooding and Location	#Depth in feet above ground.
MAINE	
Newry (Town), Oxford County (FEMA Docket No. D–7542)	
Sunday River:	
At downstream corporate limits	*648
At upstream corporate limits	*845
Barkers Brook:	
At the confluence with Sunday River	*649
A point approximately 240 feet upstream of Broadway Drive	*1,112
Maps available for inspection at the Newry Town Hall, 422 Bear River Road, Newry, Maine.	
Turner (Town), Androscoggin County (FEMA Docket No. D–7546)	
Nezinscot River:	
At confluence with Androscoggin River	*274
At upstream corporate limits	*315
Androscoggin River:	
At downstream corporate limits	*264
At upstream corporate limits	*281
Maps available for inspection at the Turner Town Office, 11 Turner Center Road, Turner, Maine.	
NEW YORK	
Plattsburgh (City), Clinton County (FEMA Docket No. D–7538)	
Saranac River:	
Approximately 200 feet upstream of Delaware and Hudson Railroad	*103
At the upstream corporate limits	*189
Maps available for inspection at the Plattsburgh City Building Inspector's Office, 41 City Hall Place, Plattsburgh, New York.	
Plattsburgh (Town), Clinton County (FEMA Docket No. D–7538)	
Saranac River:	
Approximately 0.75 mile downstream of Indian Rapids Dam	*188
Approximately 1.9 mile upstream of Harney Bridge Road	*736
Maps available for inspection at the Plattsburgh Town Hall, 151 Banker Road, Plattsburgh, New York.	

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: December 31, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–605 Filed 1–10–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

Final Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: Base (1% annual chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the FIRM is available for inspection as indicated in the table below.

ADDRESSES: The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

FOR FURTHER INFORMATION CONTACT: Mike M. Grimm, Acting, Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *mike.grimm@fema.gov*.

SUPPLEMENTARY INFORMATION: FEMA makes the final determinations listed below of BFEs and modified BFEs for each community listed. The proposed BFEs and proposed modified BFEs were published in newspapers of local circulation and an opportunity for the community or individuals to appeal the proposed determinations to or through the community was provided for a period of ninety (90) days. The proposed BFEs and proposed modified BFEs were also published in the **Federal Register**.

This final rule is issued in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67.

FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community.

The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator, Federal Insurance and Mitigation Administration certifies that this rule is exempt from the requirements of the Regulatory Flexibility Act because final or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism. This rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is amended to read as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.11 [Amended]

2. The tables published under the authority of § 67.11 are amended as follows:

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
ALASKA	
Matanuska-Susitna (City), Borough County (FEMA Docket No. B–7318)	
Talkeetna River Overflow:	
Just west of Talkeetna Spur Highway	*341
At East Bank of Talkeetna River	*351
Maps are available for inspection at the Code Compliance Department, 350 East Dahlia Avenue, Palmer, Alaska.	
CALIFORNIA	
Tehama County and Incorporated Areas, (FEMA Docket No. B–7430)	
Reeds Creek:	
Approximately 250 feet upstream of Paskenta Road	*285
Approximately 1,000 feet upstream of confluence of Pine Creek	*309
Maps are available for inspection at the Tehama County Building Department, 444 Oak Street, Red Bluff, California.	
MISSOURI	
Clay County and Incorporated Areas, (FEMA Docket No. B–7427)	
East Fork Fishing River:	
Confluence with Fishing River	*745
Just upstream of 112th Street	*749
Approximately 3,800 feet downstream of Seabold Road	*756
Fishing River:	
Just upstream of Clay/Ray County Border	*730
Just upstream of Jesse James Farm Road	*778
Just downstream of Interstate 35 bridge	*788
Approximately 4,800 feet upstream of Highway A	*859
Crockett Creek:	
Approximately 250 feet upstream of confluence with Holmes Creek	*772
Just downstream of 12th Street	*783
Just upstream of Stockdale Road	*790
Holmes Creek:	
Approximately 250 feet upstream confluence of Crockett Creek	*772
Just upstream of Summersette Road	*777
Just upstream of Highway 33	*813
Clear Creek:	
Confluence with Fishing River	*777
Just upstream of 140th Street bridge	*778
Just downstream of Interstate 35	*794
Approximately 6,300 feet upstream of Nation Road	*824
First Creek:	
Confluence with Second Creek (Approximately 1,000 feet downstream of Highway 92 bridge)	*818
Just upstream of 144th Street bridge	*851
Approximately 2,600 feet upstream of 144th Street bridge	*860
Second Creek:	
Approximately 1,550 feet upstream of Main Street	*814
Confluence of First Creek (Approximately 1,000 feet downstream of Highway 92 bridge)	*818
Rocky Branch:	
Approximately 1,150 feet upstream from confluence with Wilkerson Creek	*846
Polecat Creek:	
Confluence with Wilkerson Creek	*881
Approximately 2,500 feet upstream of Mt. Olive Road	*932

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD).
Wilkerson Creek:	
Approximately 1,500 feet upstream of confluence with Little Platte River	*816
Just downstream of Highway 92	*840
Approximately 5,000 feet upstream of 132nd Street bridge	*906
Maps are available for inspection at 234 West Shrader Street, Suite C., Liberty, Missouri.	
Excelsior Springs (City), Clay County, (FEMA Docket No. B–7427)	
East Fork Fishing River:	
Approximately 3,800 feet downstream of Seabold Road	*756
Just upstream of Seabold Road	*759
Maps are available for inspection at City Hall, 201 East Broadway, Excelsior Springs, Missouri.	
Kearney (City), Clay County, (FEMA Docket No. B–7427)	
Fishing River:	
Approximately 5,000 feet downstream of Highway 3	*780
Just downstream of Burlington North Railroad bridge	*786
Clear Creek:	
Approximately 1,150 feet downstream of Summit Street	*783
Just downstream of Interstate 35	*794
Approximately 1,000 feet upstream of Highway 33	*801
Maps are available for inspection at City Hall, 100 East Washington Street, Kearney, Missouri.	
Mosby (City), Clay County, (FEMA Docket No. B–7427)	
Fishing River:	
Approximately 1,600 feet downstream of Mosby Road	*763
Approximately 400 feet upstream of U.S. Highway 69	*777
Holmes Creek:	
At the confluence with Fishing River	*772
Approximately 350 feet upstream of West Mosby Road	*772
Crockett Creek:	
Confluence with Holmes Creek	*772
Approximately 350 feet upstream of the confluence with Holmes Creek	*772
Maps are available for inspection at City Hall, 12312 4th Street, Mosby, Missouri.	
Prathersville (Village), Clay County, (FEMA Docket No. B–7427)	
Fishing River:	
Approximately 6,600 feet downstream of Highway H	*752
Just downstream of Highway H	*757
Approximately 1,600 feet downstream of Mosby Road	*764
Williams Creek:	
At the confluence with Fishing River	*760
Approximately 550 feet upstream of the Chicago Rock Island and Pacific Railroad	*764
Maps are available for inspection at City Hall, 12212 County Road, Excelsior Springs, Missouri.	
Smithville (City), Clay County, (FEMA Docket No. B–7427)	
First Creek:	
Approximately 2,900 feet upstream of 144th Street	*861
Rocky Branch:	
Confluence with Wilkerson Creek	*846
Just upstream of 140th Street	*865
Wilkerson Creek:	
Confluence with Little Platte River	*814
Approximately 1,500 feet downstream of 144th Street bridge	*851
Second Creek:	
Confluence with Little Platte River	*814
Approximately 1,550 feet upstream from Main Street	*814
Maps are available for inspection at City Hall, 107 Main Street, Smithville, Missouri.	
NORTH DAKOTA	
Langdon (City), Cavalier County, (FEMA Docket No. B–7430)	
Mulberry Creek:	
Approximately 250 feet downstream of Highway 5	+1,597
Confluence of 5th Street Coulee	+1,600
Just downstream of Highway 1	+1,608
ND Highway 1 Ditch:	
Approximately 450 feet upstream of Simplot Crossing	+1,609
Approximately 1,500 feet upstream of Highway	+1,612
Diversion Channel:	
Approximately 300 feet downstream of 10th Street	+1,610
Approximately 700 feet upstream of 10th Street	+1,612
5th Street Coulee:	
Confluence with Mulberry Creek	+1,600
Just downstream of 12th Avenue	+1,605
Approximately 1,400 feet upstream of 18th Avenue	+1,609
Maps are available for inspection at City Hall, 324 Eighth Avenue, Langdon, North Dakota.	
SOUTH DAKOTA	
Minnehaha County and Incorporated Areas, (FEMA Docket No. B–7430)	
Skunk Creek:	
Approximately 4,400 feet downstream of U.S. Highway 16	*1,431
Just upstream of County Route 139	*1,444
Approximately 150 feet upstream of County Route 142	*1,448
Maps are available for inspection at the County Administration Building, 415 North Dakota Avenue, Sioux Falls, South Dakota.	
Hill City (City), Pennington County (FEMA Docket No. B–7424)	
Spring Creek:	
At approximately 50 feet upstream of Hill City power line located at approximately 2,000 feet upstream of U.S. Highway 385 and 16	*4,937
At approximately 1,400 feet upstream of Poplar Street and Bishop Mountain Avenue Intersection	*5,013
Newton Fork Creek:	
At Museum Drive	*4,967
Approximately 1,900 feet upstream of Museum Drive	*4,981
Maps are available for inspection at the City Hall, 324 Main Street, Hill City, South Dakota.	

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) +Elevation in feet (NAVD)	Communities affected
NEW MEXICO		
Quay County and Incorporated Areas, (FEMA Docket No. B–7430)		
Arroyo 1:		
Confluence with Lake Tucumcari	+4,016	Quay County (Uninc. Areas).
Just downstream Chicago Rock Island and Pacific Railroad	+4,040	
Arroyo 1A:		
Confluence with Arroyo 1	+4,033	Quay County (Uninc. Areas).
Approximately 245 feet upstream of Quay Road AL	+4,080	
Arroyo 2:		
Confluence with Lake Tucumcari	+4,016	Quay County (Uninc. Areas).
Approximately 4,100 feet upstream of confluence with Lake Tucumcari.	+4,043	
Arroyo 3:		
Confluence with Lake Tucumcari	+4,016	Quay County (Uninc. Areas), City of Tucumcari.
Approximately 1,750 feet upstream of U.S. Highway 54	+4,079	
Arroyo 4:		
Confluence with Lake Tucumcari	+4,016	Quay County (Uninc. Areas), City of Tucumcari.
Just downstream of New Mexico Highway 18	+4,139	
Arroyo 4D:		
Confluence with Arroyo 4	+4,036	Quay County (Uninc. Areas).
Approximately 650 feet upstream of U.S. Interstate 40	+4,063	
Arroyo 4D Overflow:		
Confluence with Lake Tucumcari	+4,016	Quay County (Uninc. Areas), City of Tucumcari.
Just downstream of Tucumcari Boulevard	+4,033	
Confluence with Lake Tucumcari	+4,016	
Approximately 420 feet downstream of Laughlin Avenue	+4,023	
Arroyo 4F (Rankin Draw):		
Just upstream of Tucumcari Boulevard	+4,034	Quay County (Uninc. Areas), City of Tucumcari.
Approximately 180 feet upstream of South Monroe Street	+4,089	
Arroyo 5:		
Approximately 2,300 feet downstream of Chicago Rock Island and Pacific Railroad.	+4,057	Quay County (Uninc. Areas), City of Tucumcari.
Approximately 2,650 feet upstream of the confluence of Arroyo 5B.	+4,159	
Arroyo 5B:		
Confluence with Arroyo 5	+4,124	Quay County (Uninc. Areas).
Approximately 1,900 feet upstream of the confluence with Arroyo 5.	+4,150	
Arroyo 6:		
Approximately 2,850 feet downstream of Chicago Rock Island and Pacific Railroad.	+4,068	Quay County (Uninc. Areas), City of Tucumcari.
Approximately 4,100 feet upstream of Eastbound Interstate 40.	+4,185	
Arroyo 6A:		
Confluence with Arroyo 6	+4,096	Quay County (Uninc. Areas), City of Tucumcari.
Approximately 2,500 feet upstream of I–40 Ramp A	+4,169	
Arroyo 7 (Bluewater Creek):		
Approximately 2,600 feet downstream of confluence of Arroyo 7A.	+4,061	Quay County (Uninc. Areas), City of Tucumcari.
Approximately 4,500 feet upstream of confluence of Arroyo 7B.	+4,109	
Arroyo 7B:		
At confluence with Arroyo 7	+4,091	Quay County (Uninc. Areas), City of Tucumcari.
Approximately 3,500 feet upstream of confluence of Arroyo 7C.	+4,131	
Arroyo 7C:		
At confluence with Arroyo 7B	+4,108	Quay County (Uninc. Areas), City of Tucumcari.
At Chicago Rock Island and Pacific Railroad	+4,155	
San Jon Creek:		
Approximately 1,000 feet upstream of sewage disposal area	+4,021	Village of San Jon and Quay County (Uninc. Areas).
Approximately 450 feet downstream of Fourth Street	+4,034	

ADDRESSES

Quay County (Unincorporated Areas)

Maps are available for inspection at Quay County Clerks Office, 300 South 3rd Street, Tucumcari, New Mexico.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD) +Elevation in feet (NAVD)	Communities affected
City of Tucumcari: **Maps are available for inspection** at City Hall, 512 South 8th Street, Tucumcari, New Mexico. **Village of San Jon:** **Maps are available for inspection** at City Hall, 507 Elm Avenue, San Jon, New Mexico.		
OKLAHOMA		
Kingfisher County and Incorporated Areas, (FEMA Docket No. B–7430)		
Cimarron River:		
Approximately 9,000 feet downstream of the confluence with Campbell Creek.	*969	Kingfisher County (Uninc. Areas).
Approximately 750 feet downstream of County Road NS282	*1,044	
Approximately 2,800 feet upstream of County Road EW60 ..	*1,120	
Kingfisher Creek:		
At confluence with Cimarron River	*1,018	Kingfisher County (Uninc. Areas), City of Kingfisher.
Approximately 1,000 feet downstream of 13th Street	*1,047	
Little Turkey Creek:		
Approximately 1,000 feet upstream of County Road EW68 ..	*1,063	Kingfisher County (Uninc. Areas).
Approximately 3,200 feet upstream of State Highway 81	*1,116	
Turkey Creek (Main Channel):		
Approximately 60 feet upstream of County Road EW715	*1,038	Kingfisher County (Uninc. Areas).
Approximately 4,500 feet upstream of U.S. Highway 81	*1,093	
Turkey Creek Split Flow:		
Approximately 2,400 feet downstream of U.S. Route 81	*1,028	Kingfisher County (Uninc. Areas), Town of Dover.
Approximately 1,400 feet upstream of County Road EW71 ..	*1,043	
ADDRESSES **Kingfisher County (Unincorporated Areas)** **Maps are available for inspection** at the Kingfisher County Floodplain Administrator's Office, County Courthouse, 101 South Main Street, Room 5, Kingfisher, Oklahoma. **City of Kingfisher:** **Maps are available for inspection** at City Hall, 301 North Main Street, Kingfisher, Oklahoma. **Town of Dover:** **Maps are available for inspection** at the Town Hall, 101 North Chisholm, Dover, Oklahoma.		

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: December 31, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–604 Filed 1–10–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3364; MM Docket No. 00–53; RM–9823, RM–9950]

Radio Broadcasting Services; Barnesville and Detroit Lakes, MN, and Enderlin, ND

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a Petition for Reconsideration filed by Triad Broadcasting Company, LLC and a Petition for Reconsideration filed by Enderlin Broadcasting Company, this document allots Channel 233C1 to Enderlin, North Dakota, and modifies the reference coordinates for the Channel 236C1 allotment at Barnesville, Minnesota. *See* 66 FR 829, published January 8, 2002. The reference coordinates for the Channel 236C1 allotment at Barnesville, Minnesota, are now 46–40–27 and 96–13–39. The reference coordinates for the Channel 233C1 allotment at Enderlin, North Dakota, are 46–25–00 and 97–15–00. With this action, the proceeding is terminated.

DATES: Effective January 30, 2003.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 418–2177.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order* in MM Docket No. 00–53, adopted December 13, 2002, and released December 16, 2002. The full text of this decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under North Dakota, is amended by adding Enderlin, Channel 233C1.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–536 Filed 1–10–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3506; MB Docket No. 02–198; RM–10513]

Radio Broadcasting Services; Hilton Head Island, Hollywood, and Port Royal, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, at the request of Apex Broadcasting, Inc., licensee of Station WJZX(FM), Port Royal, South Carolina, and Monterey Licenses, LLC licensee of Station WLOW(FM), Hilton Head Island, South Carolina the Commission reallots Channel 259C from Port Royal to Hollywood, South Carolina, as the community's first local aural transmission service and modify the license of Station WJZX(FM) to reflect the new community. To accommodate this change, they propose to reallot Channel 300C2 from Hilton Head Island to Port Royal to retain Port Royal's sole local aural transmission service and modify the license of Station WLOW(FM) to reflect the new community. Channel 259C is reallotted from Port Royal to Hollywood at Station WJZX(FM)'s current transmitter site 41.2 km (25.6 miles) southwest of the community at coordinates 32–25–10 NL and 80–28–30 WL. Channel 300C2 is reallotted from Hilton Head Island to Port Royal at Station WLOW(FM)'s current transmitter site 22.3 km (13.9 miles) southwest of the community at coordinates 32–13–36 NL and 80–50–53 WL.

DATES: Effective February 3, 2003.

FOR FURTHER INFORMATION CONTACT: Victoria M. McCauley, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MB Docket No. 02–198, adopted December 18, 2002, and released December 20, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by removing Channel 300C2 at Hilton Head Island, by adding Hollywood, Channel 259C, by removing Channel 259C and adding Channel 300C2 at Port Royal.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–535 Filed 1–10–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3363; MM Docket No. 02–197; RM–10509]

Radio Broadcasting Services; Bishopville and Lamar, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a *Notice of Proposed Rule Making,* 67 FR 52925 (August 14, 2002), this document reallots Channel 229A from Bishopville, South Carolina, to Lamar, South Carolina, and provides Lamar with its first local aural transmission service. The coordinates for Channel 229A at Lamar are 34–07–10 North Latitude and 80–08–49 West Longitude.

DATES: Effective January 24, 2003.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 02–197, adopted December 4, 2002, and released December 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street, SW., Washington, DC. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

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

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for Part 73 reads as follows:

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Carolina, is amended by adding Lamar, Channel 229A, and removing Bishopville, Channel 229A.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–532 Filed 1–10–03; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 68, No. 8
Monday, January 13, 2003

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 AGRICULTURE

Farm Service Agency

7 CFR Part 723

Commodity Credit Corporation

7 CFR Part 1464

RIN: 0560–AG52

Tobacco Marketing Cards, Penalties, Identification of Marketings and Recordkeeping and Reporting Requirements

AGENCY: Farm Service Agency and Commodity Credit Corporation, USDA.

ACTION: Proposed rule; request for public comment.

SUMMARY: The Farm Service Agency (FSA) and Commodity Credit Corporation (CCC) propose to amend regulations in order to provide for a system to electronically report non-auction purchases of burley and flue-cured tobacco at common delivery points known as receiving stations, and for the registration of these receiving stations. These changes are necessary because, with most burley and flue-cured tobacco currently being sold through private contract arrangements rather than the traditional auction system, meeting the current reporting requirements—manual reports on paper—would be extremely burdensome to the buyers of the tobacco. Also, an electronic reporting system will provide FSA with a nearly error-free method of tracking producer sales, because human error will be virtually eliminated. The proposed electronic reporting will permit the quick recording of large quantities of tobacco purchased and the equally quick reporting of these purchases to FSA for purposes of monitoring the flow of marketed tobacco. This proposed reporting system is voluntary and therefore any buyer who might find the system burdensome may comply with the record keeping and reporting requirements which are currently in place.

DATES: Submit comments about this proposed rule on or before February 12, 2003. Submit comments about the information collection (the paperwork burden) on or before March 14, 2003.

ADDRESSES: Mail or hand deliver public comments about the proposed rule or about the information collection to Director, Tobacco Division, FSA, USDA, 1400 Independence Avenue, SW., Room 5750–S, STOP 0514, Washington, DC 20250–0514. Comments may be sent by facsimile to (202) 720–0549. Comments may be sent by e-mail to: *tob_comments@wdc.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Ann Wortham, Tobacco Division, (202) 720–2715.

SUPPLEMENTARY INFORMATION:

Executive Order 12372

This proposed rule is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the notice related to 7 CFR part 3015, subpart V, published at 48 FR 29115 (June 24, 1983).

Executive Order 12866

This rule has been determined to be significant for the purposes of Executive Order 12866 and therefore has been reviewed by the Office of Management and Budget (OMB). A summary of the cost benefit assessment is included in the Background section explaining the actions this rule will take.

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable to this proposed rule because USDA is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

Unfunded Mandates

This rule contains no Federal mandates under the provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local and tribal governments or the private sector. Therefore this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Federal Assistance Programs

The title and number of the Federal Assistance Program, as found in the Catalog of Federal Domestic Assistance to which this rule applies, are: 10.051—Commodity Loans and Loan Deficiency Payments.

Environmental Evaluation

FSA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), neither an Environmental Impact Statement nor an environmental assessment is required.

Paperwork Reduction Act

Title: 7 CFR 723—Tobacco; 7 CFR 1464—Tobacco.

OMB Control Number: 0560–0182.

Type of Request: Request for approval of a revised information collection and for approval of new information collection activities.

Abstract: USDA will collect information from eligible tobacco producers by ballot referenda in order to determine such issues as whether marketing quotas will be in effect for certain kinds of tobacco or whether producers in certain states will be allowed to lease their tobacco quota across county lines. Such referenda, secured voluntarily from eligible voters, provide, for instance, for the continuation of a marketing quota system and thereby a price support program. Referenda are conducted by the Secretary of Agriculture (the Secretary) in accordance with the Agricultural Adjustment Act of 1938 as amended (1938 Act). The 1938 Act requires:

- A referendum of the farmers who were engaged in the production of the crop of tobacco immediately prior to the referendum in order to determine whether these farmers are in favor of, or opposed to, national marketing quotas for the upcoming 3 marketing years, section 312;
- A referendum of active flue-cured tobacco producers to determine whether they favor or oppose permitting the sale of flue-cured tobacco allotment or quota within their respective States, section 316; and
- A referendum which would permit the Secretary to allow for the lease and

transfer of burley tobacco across county lines within certain States, section 319.

Likewise, USDA will collect such information in the form of reports and record-keeping requirements which are necessary to meet the provisions of the 1938 Act which require that the tobacco marketing quota program resists both an excessive supply and the disorderly marketing of tobacco. The purchase information to be collected from receiving stations is to be used to maintain an orderly flow of tobacco by providing a reconcilable audit trail of tobacco allotted, grown, and then sold.

The information to be collected from receiving stations is the same information that dealers, purchasing tobacco directly from farmers outside the auction warehouse venue, are required to submit according to current regulations. Certain reporting modifications are proposed, however, in order to enable receiving stations to capture and transmit tobacco marketing information required by USDA using computer technology. Marketing data collected from receiving station purchases combined with that of dealer purchases and of auction market sales, provides a view of tobacco production throughout the nation. These total figures are available to Congress, and the USDA, Office of Inspector General (OIG), and National Agricultural Statistical Service (NASS).

Any new information collection requirements that result from this rule will be submitted to OMB for approval under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq*).

Estimate of Respondent Burden: The estimated average public reporting burden for the collection of information is as follows:

Respondents: Eligible Tobacco Farmers voting in a referendum and receiving station officials.

Estimated Number of Respondents: 239,535.

Estimated Annual Number of Responses: 246,087.

Estimated Total Annual Burden Hours on Respondents: 22,133.

In addition to commenting on the substance of the regulation, the public is invited to comment on the information collection. Proposed topics include the following: (a) 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; (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 technology; or (d) ways to minimize the burden of the information collection on those who are to respond. The information collection package may be obtained from the Tobacco Division, at the address listed below. Comments regarding the information collections may be sent to the Desk Officer for Agriculture, Office of Information and Regulator Affairs, OMB, Washington, DC 20503; and to Tobacco Division, FSA, USDA, STOP 0514, 1400 Independence Avenue, SW., Washington, DC 20250–0514.

Public Participation

Interested persons are invited to participate in this proposed rule making by submitting written data, views, or arguments. Comments relating to the economic effects that might result from adoption of the proposals in this rule are also invited. All comments received on or before the closing date for comments will be considered before action is taken on this proposed rule. The proposals contained in this rule may be changed in light of comments received from the public. All comments should reference the Regulation Identifier Number (RIN) and the date and page number of this issue of the **Federal Register**. Comments will be made available for public inspection in the Office of the Director during regular business hours.

Background

The Agricultural Adjustment Act of 1938 (the 1938 Act) requires farmers growing burley and flue-cured tobacco, in states in which marketing quotas for those kinds of tobacco are in effect, to have a marketing allotment, or quota, system. Annually, the Secretary determines and announces the amount of these kinds of tobacco which may be marketed during the marketing year. The total marketing quota for burley and flue-cured tobaccos for 2001 were 880,900,000 pounds (548,900,000 flue-cured and 332,000,000 burley). These national quotas are then apportioned among the States for allocation to the farms on which the quota is produced, thus establishing individual farm marketing quotas. Further, the Secretary requires collection of penalties upon those pounds of tobacco marketed from any farm in excess of that farm's marketing quota. In order to monitor tobacco marketing, certain procedures have been established to collect the following information for each marketing year:

- The amount of tobacco allotted to each farm for sale; and the amount of tobacco actually sold from each farm. The primary methods of collecting and verifying this data are:
- A marketing card issued for each farm which carries on the reverse side the total number of pounds of tobacco which may be sold from that farm without incurring a penalty; and
- A separate sale bill for each market transaction itemizing the number of pounds purchased.

There are two ways to buy tobacco:

- A buyer goes to a tobacco auction warehouse and competitively bids for displayed tobacco; or
- A buyer goes to a tobacco farm and buys directly from the grower.

At each of these market venues, notations are made on the marketing card to reflect the amount of tobacco sold or purchased in the transaction, and a sale bill is prepared. At the close of the market season, a reconciliation is done for each farm: the totals on a farm's marketing card are compared to the totals of a farm's sale bills.

At an auction warehouse, a tobacco grower presents a stiff, embossed, plastic marketing card which is put into a machine that is provided and serviced by FSA (similar to those used in early credit card days) which imprints farm-specific information necessary to track tobacco marketings directly onto each sales bill. However, a buyer who purchases directly from a grower does not have access to the imprint machine and must complete all farm-specific information by hand. Historically, 97% of tobacco has been sold at auction; and 3% purchased directly from the growers. The 2001 marketing year almost reversed these proportions and thus put an extreme reporting burden on those who purchase directly from the growers.

The Current Reporting Rule

This rule proposes to reduce the burden by allowing reports to be submitted electronically. Current rules do not provide for electronic reporting. Customers who buy large quantities of tobacco at receiving stations may submit farm-specific marketing information electronically under this rule. A marketing card with a thermal imprinted bar code will be provided to growers who will deliver tobacco to receiving station(s). The bar code will provide the same farm-specific information necessary to track tobacco marketings that is currently included in the traditional embossed card. These proposed changes will allow each buyer to develop a tobacco purchasing practice tailored to its needs while allowing FSA to track marketed quota. Further, FSA will benefit by obtaining market information within 48 hours, rather than weeks after the close of a market season as is the case with the old

paper based system. Also, it will reduce the amount of human error inherent in manually entering data. Thus, electronic reporting of tobacco sales will provide a more effective method of monitoring quota and greatly reduce the likelihood of fraud.

Economic Evaluation

Electronic reporting is expected to save approximately $500,000 annually by eliminating manual processing of reports and the related printing, delivery, handling, and storage expenses. In addition, personnel at the receiving stations may save as much as 20,000 hours of labor annually by not having to manually report each purchase. Thus, this proposed rule will cost buyers substantially less than complying with current requirements for manually reporting tobacco purchases.

Conclusion

Reports from receiving stations will be maintained separately from those of ''auction warehouses'' and ''dealers,'' in addition to the reporting being done electronically. The proposed reporting changes will benefit both the buyer and FSA:

- Buyers will not have to maintain both a manual and an electronic accounting of the purchase; and
- FSA will receive more timely reports of tobacco marketings and not have to manually input sales information.

The Proposed Rule

For the reasons stated in the preamble, the Farm Service Agency proposes to amend Part 723 and Part 1464 of the Regulations of the Department of Agriculture as follows:

PART 723—TOBACCO

1. The authority citation for 7 CFR Part 723 will continue to read as follows:

Authority: 7 U.S.C. 1301–1314, 1314–1, 1314b, 1314b–1, 1314b–2, 1314c, 1314d, 1314e, 1314f, 1314i, 1315, 1316, 1362, 1363, 1372–75, 1421, 1445–1, and 1445–2.

2. Amend § 723.104 by adding the following terms to paragraph (b) in the proper alphabetical order:

§ 723.104 Definitions.

* * * * *

Contract Purchase. A non-auction purchase of tobacco between a buying tobacco company and a producer, who have previously entered into a contract describing conditions of the purchase.

Contract Tobacco. Non-auction tobacco purchased by a tobacco buying company from a producer in accordance with a contract describing conditions of the purchase.

* * * * *

Floor Scrap. Scrap or leaves of tobacco that accumulate on a receiving station floor before purchase during the regular course of business.

* * * * *

Purchase Date. Date on which the gross amount of the purchase price of first marketing of tobacco is determined.

Purchase Day. Calendar day the tobacco was marketed at a receiving station.

* * * * *

Receiving Station. A buying company-designated place where producers market tobacco under contract with the buying company.

Receiving Station Agent. A representative of the receiving station.

Receiving Station Gross Pounds Purchased. Sum of the weight of all purchased producer tobacco on a receiving station floor.

Receiving Station Official. A buying company designee at the receiving station with legal authority to obligate the buying company and who will be a point of contact concerning the day-to-day operations of the receiving station.

* * * * *

Staging area. An area within the receiving station in which producer tobacco is unloaded and prepared to be marketed.

3. In § 723.305 revise paragraph (a)(1) introductory text to read as follows and remove paragraph (e)(4):

§ 723.305 Issuance of marketing cards.

(a) * * *

(1) A marketing card (MQ–76, MQ–76–C, or MQ–77) shall be issued for the current marketing year for each farm having quota tobacco available for marketing. Cards shall be issued in the name of the farm operator except that:

* * * * *

4. In § 723.309 revise paragraphs (b) and (c), and add paragraph (d) to read as follows:

§ 723.309 Persons to pay penalty.

* * * * *

(b) *Receiving station purchase.* The penalty due on marketings by a producer through a receiving station purchase shall be paid by the receiving station official, who may deduct an amount equivalent to the penalty from the price paid to the producer.

(c) *Non-auction sale.* The penalty due on tobacco acquired directly from a producer or dealer, other than at an auction sale or receiving station purchase, shall be paid by the person acquiring the tobacco, who may deduct an amount equivalent to the penalty from the price paid to the producer or dealer in the case of a sale.

(d) *Marketing outside the United States.* The penalty due on marketings by a producer or dealer directly to any person outside the United States shall be paid by the producer or dealer making the sale.

5. In § 723.310 revise paragraphs (a) and (c) to read as follows:

§ 723.310 Date penalty is due.

(a) *Payment of penalty.* Penalties shall become due at the time the tobacco is marketed, except that in the case of false identification or failure to account for disposition, the penalty shall be due on the date of such false identification or failure to account for disposition. The penalty shall be paid by remitting the amount due to the State FSA office not later than the end of the calendar week in which the tobacco becomes subject to penalty. A draft, money order, or check drawn payable to the Farm Service Agency may be used to pay any penalty, but any such draft, money order, or check shall be received subject to payment at par.

* * * * *

(c) *Receiving station purchases or non-auction sales.* Receiving station purchases or non-auction sales of excess tobacco shall be subject to the full rate of penalty, and such shall be paid in full even though the penalty may exceed the proceeds for the sale of tobacco.

6. In § 723.311 revise paragraphs (b)(3), (d)(2), (d)(2)(i), and (e) and add paragraph (b)(4) to read as follows:

§ 723.311 Lien for penalty; liability of persons who are affiliated with indebted person or who permit the indebted person to use their identification card.

* * * * *

(b) * * *

(3) In the case of an indebted dealer, the debt is entered on the debt record of the State FSA office for the State in which the dealer is required to file reports; and

(4) In the case of an indebted receiving station official, the debt is entered on the debt record of the State FSA office for the State in which the receiving station is located.

* * * * *

(d)(1) * * *

(2) A dealer, warehouse operator or receiving station official who permits an indebted person to use such dealer's or warehouse operator's identification card or receiving station official's identification number to market tobacco shall be liable for the amounts due by the indebted person to the United States

under this part up to the amount of the value of the tobacco so marketed. In addition, unless the Deputy Administrator determines otherwise, any persons or person, who as a warehouse operator, dealer, or receiving station official becomes affiliated with any person who at the time of affiliation is indebted under this part to the United States, shall be liable for the amount of the debt owed to the United States by the person with whom such person or persons become affiliated up to the amount of the value of any tobacco which is marketed by such affiliated warehouse operator, dealer, or receiving station official during the time of the affiliation with the indebted person. Affiliation may include any relationship in which the parties have a common interest in tobacco, or in an enterprise or entity involved in the marketing, processing, or handling of tobacco, or where the parties both hold a position of responsibility or ownership in such an enterprise or entity, or where there is common ownership of a business involved in the transaction, as determined by the Deputy Administrator. A warehouse operator, dealer, or receiving station official may also be considered to be affiliated with an indebted person when such warehouse operator, dealer, or receiving station official is associated with a person who is both:

(i) An employee or otherwise authorized to buy and sell tobacco for such warehouse operator, dealer, or receiving station official; and

(ii) * * *

(e) *TMQ lien notation.* Upon notification that a TMQ lien has been established, the producer marketing card (MQ–76 or MQ–76–C) or dealer identification card (MQ–79–2) shall be returned immediately to the issuing office for recording the TMQ lien. Failure to immediately return the applicable card will result in FSA notifying all registered warehouse operators, dealers, and receiving station officials of the TMQ lien information and of their responsibilities for collecting the TMQ lien. The card shall be promptly returned to the producer or dealer after it is annotated with the TMQ lien.

* * * * *

7. In § 723.313 revise paragraphs (a)(1) introductory text, (a)(2), (a)(3), (b), (e), and (f) to read as follows:

§ 723.313 Identification of marketings.

(a) * * *

(1) *Identification of producer marketings.* Each auction and non-auction marketing of burley or flue-cured tobacco shall be identified by a valid marketing card, Form MQ–76 or MQ–76–C, issued for the farm. The reverse side of the marketing card shall show in pounds:

* * * * *

(2) *Cross-references of tobacco sale bill number to prior sale bill.* Each warehouse operator and receiving station official, for each lot of tobacco weighed in on the warehouse floor or receiving station floor for sale the same day, shall cross-reference the tobacco sale bill to each prior tobacco sale bill for tobacco identified by the same marketing card. To accomplish the cross-reference, each other tobacco sale bill number shall be entered by the warehouse operator or receiving station official in the ''Remarks'' space on the tobacco sale bill, on all copies, at the time such tobacco is weighed at the warehouse.

(3) *Recording producer sale.* Each producer sale at auction shall be recorded on Form MQ–72–1, Report of Tobacco Auction Sale, and each producer sale at a non-auction receiving station shall be electronically recorded in a format and transmitted according to standards issued by the Deputy Administrator. Receiving station officials may request approval from the Deputy Administrator to manually record on Form MQ–72–C, Report of Receiving Station Purchase, for producer sales. Dealer purchases shall be executed on Form MQ–72–2 and the data shall be entered on Form MQ–76–C. For producer sales at auction, Form MQ–72–1 and Form MQ–76 shall be executed only by the FSA marketing recorder. For producer sales at a receiving station, Form MQ–72–C and Form MQ–76–C shall be executed only by the FSA marketing recorder.

(4) * * *

(b) *Dark air-cured, fire-cured, or Virginia sun-cured tobacco.* With respect to dark air-cured, fire-cured, or Virginia sun-cured tobacco:

(1) *Identification of producer marketings.* Each marketing of such kind of tobacco from a farm shall be identified by a valid marketing card issued for the farm for the respective kind of a tobacco, either an MQ–76, MQ–76–C or MQ–77 (including sale memo). With respect to each non-auction sale from:

(i) A within quota farm a check mark shall be entered on the inside of MQ–76, and

(ii) An excess farm for which an MQ–77 is issued, an executed bill of nonauction sale shall be prepared, and such bill of nonauction sale shall be delivered to a marketing recorder or other person who is authorized to issue sale memos.

(2) *Other persons authorized to execute MQ–76, MQ–76–C or MQ–77 (including sale memo).*

(i) A warehouse operator who has been authorized during the current marketing year on MQ–78, Tobacco Warehouse Organization, may record a sale on MQ–76 or MQ–77 (including the issuance of a sale memo) to identify a sale for a farm if a marketing recorder is not available at the warehouse when the marketing card is presented.

(ii) A receiving station official who has been so authorized by the Deputy Administrator during the current marketing year may record a sale on MQ–76–C (including the issuance of a sale memo) to identify a sale for a farm if a marketing recorder is not available at the receiving station when the marketing card is presented.

(iii) Any warehouse operator, receiving station official or dealer, who engages in the business of acquiring scrap tobacco from farmers, and who has been authorized on MQ–78 or MQ–78–C, may for each purchase of scrap tobacco execute an MQ–76, MQ–76–C or MQ–77 (including a sale memo if the bill of non-auction sale has been executed).

(3) *Verification of sales processed during the absence of marketing recorder.* Any person authorized on MQ–78 or MQ–78–C by the Deputy Administrator to act as a marketing recorder shall promptly present to a marketing recorder for verification each warehouse bill (floor sheet) or receiving station sales bill processed and identified by an MQ–76, MQ–76–C, or MQ–77 (including any sale memos) executed in the absence of a marketing recorder.

(4) *Authorization to act as marketing recorder.* The authorization on MQ–78 or MQ–78–C for persons may be granted by the Deputy Administrator or may be withdrawn by the Deputy Administrator if such action is determined to be necessary to properly enforce the regulations in this part.

(e) *Verification of penalties by warehouse operators, receiving station officials, or dealers.* Each sale of tobacco by a producer which is subject to penalty and which has been recorded by a marketing recorder shall be verified by a warehouse operator, receiving station official, or dealer to determine whether the amount of the penalty shown to be due has been correctly computed. Such warehouse operator or receiving station official shall not be relieved of any liability for the amount of penalty due because of any error which may occur in computing the penalty and recording the sale.

(f) *Check register.* The serial number of the tobacco sale bill(s) shall be recorded by the warehouse operator or receiving station official on the check register or check stub for the check written covering the sale of tobacco by a producer.

* * * * *

8. In § 723.401 revise the section title, re-designate paragraphs (b) through (e) as paragraphs (c) through (f), and add a new paragraph (b) to read as follows:

§ 723.401 Registration of burley and flue-cured tobacco warehouse operators, receiving station officials and dealers.

* * * * *

(b) *Receiving station registration.* For burley and flue-cured tobacco, any receiving station official purchasing either flue-cured or burley tobacco shall be registered with the U.S. Department of Agriculture, and such registration shall be filed with the Director, Tobacco and Peanuts Division.

* * * * *

9. Revise § 723.402 to read as follows:

§ 723.402 Warehouse or receiving station authorized to retain producer marketing cards between sales.

(a) *General.* Notwithstanding any other provisions of this part, to facilitate the scheduling of a farmer's tobacco to the warehouse or receiving station, the marketing card, with the permission of the producer, may be retained at an eligible warehouse or receiving station between sales even though no producer on the farm for which the card is issued has tobacco on the floor for sale or to be settled for, as provided in this section.

(b) *Warehouse or receiving station eligible to retain producer marketing cards between sales.* A warehouse or receiving station shall be eligible to retain producer marketing cards between sales if the operator or official thereof shall:

(1) Execute and file on a form approved by FSA a written request with the State FSA committee (or county FSA committee if designated by the State FSA committee);

(2) Agree to be responsible to FSA for an amount of money equal to the amount that may be assessed against any producer as marketing quota penalties, if the marketing that is the basis of assessment of penalty occurred while the warehouse or receiving station was authorized to have custody of the marketing card, for:

(i) Burley or flue-cured tobacco, for any over marketing resulting from errors made at the warehouse or receiving station in entering ''balance after sale'' pounds on the producer's marketing card or failure to deduct pounds sold on producer's marketing card;

(ii) Tobacco falsely identified for marketing by use of the producer's marketing card;

(iii) Producer's failure to account for any tobacco marketed by use of the producer's marketing card; or

(iv) Any burley or flue-cured tobacco marketed at the warehouse or receiving station in excess of 103 percent of quota as shown on the producer's marketing card;

(3) Agree to maintain an accurate and up-to-date journal containing a listing of all producer marketing cards retained by the warehouse or receiving station to facilitate the scheduling of farmers' tobacco. Such journals shall be maintained for the length of time and under the conditions required for other warehouse or receiving station records. The journal shall show for each card retained the:

(i) Name of the operator;

(ii) Serial number of farm (including state and county codes and farm number);

(iii) Marketing card number, if applicable;

(iv) Date marketing card was obtained from producer; and

(v) Date marketing card was returned to producer;

(4) Agree to return producer marketing card to the producer at any time the producer may so request, or in the absence of a request, return it to the producer within 7 days after the close of the warehouse or receiving station for the season; and

(5) Agree that this authorization may be terminated by FSA for failure to comply with provisions of this agreement.

(c) *Penalties are considered to be the responsibility of warehouse operators and receiving station officials.* Notwithstanding any other provision of this part, a warehouse operator or receiving station official who executes and files a written request with the Director, Tobacco and Peanuts Division for authorization to retain producers' marketing cards at the warehouse or receiving station, with producer's permission, shall be responsible to FSA for an amount of money equal to the amount that may be assessed against the producer as marketing quota penalties if the marketing that is the basis of such assessment occurred while the warehouse or receiving station was authorized to have custody of the marketing card, for:

(1) Any burley or flue-cured tobacco, for any over marketing resulting from errors made at the warehouse or receiving station in entering ''balance after sale'' pounds on the producer's marketing card or failure to deduct pounds sold on the producer's marketing card. However, the warehouse operator or receiving station official shall not be responsible for any penalty under this subparagraph, if such penalty would not have been assessed against the producer in accordance with § 723.409(e) of this part;

(2) Tobacco falsely identified for marketing by use of the producer's marketing card;

(3) Producer's failure to account for any tobacco marketed by use of such producer's marketing card; or

(4) With respect to burley or flue-cured producers, tobacco marketed at the warehouse or receiving station in excess of 103 percent of quota as shown on the producer's marketing card.

10. In § 723.403 revise the section title, remove paragraph (h), re-designate paragraphs (i) through (v) as paragraphs (h) through (u), and revise paragraphs (d)(1)(ii), (d)(1)(iv), (e)(2), (e)(10)(iii), and newly redesignated (l) to read as follows:

§ 723.403 Auction warehouse operators and receiving station officials; records and reports.

* * * * *

(d)(1) * * *

(ii) For flue-cured and burley tobacco, registration number assigned the warehouse by the Department;

(iii) * * *

(iv) For flue-cured and burley tobacco, the identification of other producers having an interest in the tobacco;

* * * * *

(e) * * *

(2) *Recording farm identification.* For burley and flue-cured tobacco, at the time the tobacco is weighed in, the warehouse operator or receiving station official shall record on the tobacco sale bill, the State and county codes and the farm serial number from the marketing card (MQ–76 or MQ–76–C) issued for the farm from which the tobacco is to be marketed.

* * * * *

(10) * * *

(iii) *Non-auction purchase by a warehouse operator.* The warehouse operator shall deduct, from the balance of the ''103 percent of quota'' entry on the marketing card (MQ–76–C), the pounds of tobacco purchased as a non-auction purchase. In addition, each warehouse operator shall record on Form MQ–79 and on Form MQ–72–2, Report of Tobacco Non-auction Purchase, each non-auction purchase of tobacco made by such warehouse operator. The data to be reported on

Form MQ–72–2 is set forth in Sec. 723.404 of this part.

* * * * *

(l) *Bill-out invoice.* For flue-cured and burley tobacco, when the tobacco has been sold at auction, the bill-out invoice to the buyer shall include the warehouse registration number on which the lot of tobacco was recorded on the sale bill.

* * * * *

11. In § 723.404 revise the section title and paragraph (c)(2)(iii) to read as follows:

§ 723.404 Dealer's and receiving station's records and reports, excluding cigar tobacco buyers.

* * * * *

(c) * * *

(2) * * *

(iii) For non-auction purchases which are made from producer by the dealer or the receiving station official, the dealer or receiving station official shall remit the producer's and the dealer's or receiving station's share of the No Net Cost Assessment as provided in part 1464 of this title. The dealer may deduct the producer's share of the assessment from the price paid for the tobacco. However, the No Net Cost Assessment shall not be remitted from a producer who identifies the tobacco for marketing with a marketing card which has zero pounds as the 103 percent entry on the marketing card; a marketing penalty at the full rate shall be collected on the marketings identified by such card. The amount of the No Net Cost Assessment which is applicable to tobacco marketed during each marketing year will be the amount per pound which is approved and announced by the Secretary.

* * * * *

12. In § 723.405 revise the section title and add a new paragraph (c) to read as follows:

§ 723.405 Dealers exempt from regular records and reports on MQ–79; season report for dealers; and receiving station resale records and reports exempt from daily reporting.

* * * * *

(c) Any receiving station who acquires tobacco in the form in which tobacco ordinarily is sold by producers and resells such tobacco shall be subject to the requirements of this part.

(1) This paragraph is applicable only to burley and flue-cured tobacco. Each receiving station official shall make a report to the Director, TPD not later than February 1 of each year for flue-cured and April 1 for burley tobacco, showing:

(i) The receiving station's USDA identification number;

(ii) Source;

(iii) Dealer USDA identification number; and

(iv) Pounds of all tobacco, in the form normally marketed by producers, purchased or sold through resale.

(2) For resale purchases for each receiving station, the report shall include the following information:

(i) USDA registration number (receiving station code),

(ii) Name and address of receiving station,

(iii) Gross pounds purchased,

(iv) Name and address of seller, and

(v) Seller's number (dealer's registration number, receiving station code, or farm number, including State and county code).

(3) For resale sales for each receiving station, the report shall include the following information:

(i) USDA registration number (receiving station code),

(ii) Name and address of receiving station,

(iii) Gross pounds sold,

(iv) Name and address of purchaser, and

(v) Purchaser's number (dealer registration number, receiving station code, or farm number, including State and county code).

13. In § 723.408 revise paragraph (d)(2)(i)(B) to read as follows:

§ 723.408 Producer's records and reports.

* * * * *

(d) * * *

(B) MQ–76 or MQ–76–C, to the accuracy of the Record of Sales recorded on the card.

* * * * *

14. In § 723.409 revise the section title and paragraphs (b) introductory text and (b)(4) to read as follows:

§ 723.409 Producer violations, penalties, false identification collections and remittances by dealers, buyers, handlers, warehouses, receiving stations and other parties; related issues.

* * * * *

(b) *Special provisions for tobacco buyers, dealers, handlers, warehouse operators, receiving station officials and others who acquire, handle, or facilitate the marketing of tobacco.* Notwithstanding the provisions of paragraph (a) of this section and other provisions of this part:

* * * * *

(4) If a penalty is collected and remitted by a buyer, dealer, receiving station official or warehouse operator that is shown not to be due or only partially due, then the overpayment shall be refunded to the appropriate party. It is the responsibility of the person who collected the penalty and the person who sold the tobacco involved to show to the satisfaction of FSA that such penalty is not due in the full amount collected.

* * * * *

15. Revise § 723.410 to read as follows:

§ 723.410 Penalties considered to be due from warehouse operators, receiving station officials, dealers, buyers and others excluding the producer.

Subject to any additional requirements or provisions for remittances which are contained in § 723.409 of this part, any marketing of tobacco under one of the following conditions shall be considered, subject to rebuttal, to be a marketing of excess tobacco:

(a) *Auction sale without burley or flue-cured tobacco marketing card.* For burley and flue-cured tobacco, any first marketing of tobacco at an auction sale by a producer which is not identified by a valid marketing card at the time of marketing shall be considered to be a marketing of excess tobacco and the penalty thereon shall be collected and remitted by the warehouse operator unless, prior to marketing, an AMS inspection certificate is obtained showing that the tobacco is of a kind not subject to marketing quotas.

(b) *Auction sale without dark air-cured, fire-cured, or Virginia sun-cured tobacco marketing card.* For dark air-cured, fire-cured, or Virginia sun-cured tobacco, any first marketing of tobacco at an auction sale by a producer which is not identified by a valid marketing card (MQ–76 or MQ–77, including sale memo) on or before the last warehouse sale day of the marketing season, or within 4 weeks following the date of marketing, whichever comes first, shall be identified by an MQ–82, and shall be presumed, subject to rebuttal, to be a marketing of excess tobacco. The penalty thereon shall be paid by the warehouse operator.

(c) *Burley or flue-cured tobacco non-auction sale.* For burley and flue-cured tobacco, any non auction marketing of tobacco which:

(1) Is not identified by a valid marketing card (MQ–76–C) and recorded at the time of marketing on MQ–79, Dealer's Report, the marketing card, and MQ–72–2, Report of Tobacco Non-auction Purchase; or,

(2) If purchased prior to the opening of the local auction market for the current year, it is not identified by a valid marketing card and recorded on MQ–79, the marketing card, and MQ–72–2, Report of Tobacco Non-auction Purchase on or before the end of the calendar week (which includes the first

sale day of the local auction markets). The penalty thereon shall be collected by the purchaser of such tobacco, and remitted with MQ–79, unless prior to marketing an AMS inspection certificate is obtained showing that the tobacco is of a kind not subject to marketing quotas.

(d) *Non auction sale, except burley, flue-cured, and cigar tobacco.* For dark air-cured, fire-cured, or Virginia sun-cured tobacco, any Non-auction sale of tobacco which:

(1) Is not identified by an MQ–76 or MQ–77 (including a valid sale memo); and

(2) Is not recorded on MQ–79, Dealer's Record, on or before the end of the calendar week in which the tobacco was purchased; or

(3) If purchased prior to the opening of the local auction market for the current year, is not identified by an MQ–76 or MQ–77 (including a valid sale memo), and recorded on MQ–79 on or before the end of the calendar week (which includes the first day of the local auction markets). The penalty thereon shall be paid by the purchaser of such tobacco.

(e) *Burley and flue-cured tobacco sold at a receiving station.* For burley and flue-cured tobacco, any receiving station marketing of tobacco which:

(1) Is not identified by a valid marketing card (MQ–76–C) and recorded at the time of marketing on MQ–80–C, MQ–76–C and MQ–72–C, on or before the day of the purchase. The penalty thereon shall be collected by the purchaser of such tobacco, and remitted with MQ–80–C unless prior to marketing an AMS inspection certificate is obtained showing that the tobacco is of a kind not subject to marketing quotas.

(f) *Failure to obtain an MQ–76 and sale memo, and failure to record a sale on MQ–76-cigar tobacco.* Any sale of cigar tobacco for which a dealer:

(1) If within quota, fails to record the sale on the marketing card issued for the farm; or

(2) If the tobacco was produced on a farm for which an excess marketing card was issued, fails to obtain a valid sale memo by the end of the sale date. The penalty thereon shall be paid by the buyer who fails to make the record.

(g) *Leaf account tobacco.* If warehouse resales exceed prior leaf account purchases, such marketings shall be considered to be a marketing of excess tobacco unless such warehouse operator furnishes evidence acceptable to the State FSA committee showing that such marketing is not a marketing of excess tobacco. However, acceptable evidence shall not be based on the warehouse operator's proof of purchases of tobacco that is not in the form normally marketed by producers. Such evidence is not acceptable even though it may indicate that the resales exceed prior leaf account purchases because of the blending of tobacco with the warehouse operator's prior purchases.

(h) *Dealer tobacco—burley and flue-cured.* The burley or flue-cured tobacco resales by a dealer (as shown or due to be shown on MQ–79), which are in excess of such dealer's total prior purchases of the respective kind of tobacco, shall be considered to be a marketing of excess tobacco and penalty thereon shall be due at the time marketing takes place which results in the excess. If the resale which results in penalty being due is made at auction, the warehouse shall deduct the penalty from the proceeds of the sale and shall remit the penalty to the marketing recorder. If the resale which results in penalty being due is made at non-auction, the purchaser shall deduct the penalty from the proceeds of the sale and shall remit the penalty to the applicable State FSA office.

(i) *Receiving Station Tobacco—burley and flue-cured.* The burley and flue-cured tobacco resales by a receiving station which are in excess of such buying company's total prior purchases of the respective kind of tobacco shall be considered to be a marketing of excess tobacco and penalty thereon shall be due at the time of the marketing which results in the excess. If the resale which results in a penalty due is made at auction, the warehouse shall deduct the penalty from the proceeds of the sale and shall remit the penalty to the marketing recorder. If the resale which results in penalty being due is made at non-auction, the purchaser shall deduct the penalty from the proceeds of the sale and shall remit the penalty to the applicable State FSA office, unless such buying company furnishes evidence acceptable to the State FSA committee showing that such marketing is not a marketing of excess tobacco. However, evidence acceptable to the State FSA committee shall not be based on the receiving station's proof of purchase of tobacco that is not in the form normally marketed by producers even though such evidence may indicate that resales exceed prior purchases as a result of the blending of tobacco, which was not in the form normally marketed by producers, with the receiving station official's prior purchases of tobacco. Multiple receiving stations purchasing as a single buying company may transfer pounds purchased at individual receiving stations that will be resold, to the buying company's dealer record for resale. A receiving station registration number cannot be used to resell tobacco at auction.

(j) *Resales not reported.* Any resale of tobacco which is required to be reported by a warehouse operator, receiving station official or dealer, but which is not reported within the time and in the manner required, shall be considered to be a marketing of excess tobacco, unless and until such warehouse operator, receiving station official or dealer furnishes proof of such resale which is acceptable to the Director, TPD. The penalty thereon shall be paid by the warehouse operator, receiving station official or dealer who fails to make the report as required.

(k) *Marketing falsely identified by a person other than the producer of the tobacco.* If any marketing of tobacco by a person other than the producer is identified by a marketing card other than the marketing card issued for the farm on which the tobacco was produced, and the source of production of the tobacco is unknown, such marketing shall be presumed to be a marketing of excess tobacco. The marketing quota penalty shall be paid by the person who marketed the tobacco.

(l) *Carryover tobacco, except cigar tobacco.* Any tobacco on hand, except for cigar tobacco, and reported or due to be reported under § 723.403 of this part for warehouse operators, § 723.417 of this part for receiving station officials, and § 723.404 of this part for dealers shall, be included as a resale in determining whether an account for a kind of tobacco has excess resales. Unless the warehouse operator or receiving station official furnishes proof acceptable to the State FSA committee, and unless the dealer furnishes proof acceptable to the State FSA executive director, showing that such account does not represent excess tobacco, penalty at the full rate for the respective kind of tobacco shall be paid thereon by such warehouse operator, receiving station official or dealer.

(m) *Unrecorded sale of cigar tobacco.* Any sale of cigar tobacco which is not recorded on MQ–79 CF&B, Buyer's Record Book, by the 10th day of the month following the month during which the sale occurred, shall be presumed to be a marketing of excess tobacco. The penalty thereon shall be paid by the buyer who fails to make the record.

(n) *Floor scrap.* Any receiving station official who markets floor scrap shall be subject to a civil penalty of 150 percent of the average market price for the immediately preceding marketing year, as determined by the U.S. Department of

Agriculture. The calculated penalty shall be rounded to the nearest whole cent. Any floor scrap on hand more than 30 days shall be considered sold. The floor scrap on hand shall be weighed, and the weight certified to, by the receiving station official, with such weighing to be done in the presence of a representative of either the county or the state FSA committee. Floor scrap which is destroyed within 30 days in the presence of an FSA representative shall not be considered as marketed when determining the total quantity of floor scrap marketed. If the County FSA Committee determines that floor scrap was marketed in the current year, the person responsible for such marketing shall be notified of the determination and afforded an opportunity to request reconsideration of such determination in accordance with the provisions of part 750 of this chapter. A determination that a civil penalty is due for marketing floor scrap shall not become final and shall not be assessed until such person has been afforded an opportunity for a hearing and such person has exhausted the applicable administrative remedies. Notice of assessment shall require such person to pay the civil penalty to ''Farm Service Agency, USDA'' within 15 days after the mailing date of said notice.

(o) *Floor sweepings.* Any person who markets floor sweepings in excess of allowable floor sweepings shall be subject to a civil penalty of 150 percent of the average market price for the immediately preceding marketing year, as determined by the U.S. Department of Agriculture. The calculated penalty rate shall be rounded to the nearest whole cent. Any floor sweepings on hand more than 30 days (15 days with respect to flue-cured tobacco) after the warehouse closes for the auction season shall be considered marketed. The floor sweepings on hand shall be weighed by the warehouse operator and the weight shall be certified by the warehouse operator, such weighing to be done in the presence of a representative of either the county FSA committee or the State FSA committee. Floor sweepings which are destroyed in the presence of a representative of the county FSA committee, within 30 days (15 days with respect to flue-cured tobacco) after the warehouse closes shall not be considered as marketed when determining the quantity of floor sweepings marketed. If the county FSA committee determines, after the warehouse has been closed for the auction season for more than 30 days (15 days with respect to flue-cured tobacco), that the cumulative quantity of floor sweepings marketed and considered marketed in the current marketing year is in excess of the allowable floor sweepings, the person responsible for such marketings shall be given notice of the determination and shall be afforded an opportunity to request reconsideration of such determination in accordance with the provisions of part 780 of this chapter. A determination that a civil penalty is due for marketing floor sweepings in excess of the allowable floor sweepings shall not become final and shall not be assessed until such person has been afforded an opportunity for a hearing and such person has exhausted the applicable administrative remedies. The notice of assessment shall require such person to pay the civil penalty to the ''Farm Service Agency, USDA'' within 15 days after the mailing of the notice.

(p) *Blending tobacco not in the form normally marketed by producers—burley and flue-cured tobacco.* Tobacco purchased from processors or manufacturers that is considered not in the form normally marketed by producers, and which is blended with tobacco in the form normally marketed by producers, shall not be credited as a purchase to the dealer's or warehouse operator's account by the State FSA committee when reconciling the warehouse operator's leaf account or the dealer's purchases and resales. Tobacco not in the form normally marketed by producers, and which is blended with other tobacco, shall be deemed to be excess tobacco and penalty shall be due on the pounds of tobacco by which a warehouse operator's or dealer's resales exceed prior purchases.

(q) *Advances and other cases in which the producer's marketing card is used improperly.* For tobacco of any kind to which this part applies, if tobacco is marketed by a person by using the producer's marketing card, or the tobacco is pledged for a price support loan by using that card, but under the provisions of part 1464 of this title, the producer is deemed to have not been an ''eligible producer'' with respect to the disposition of that tobacco at the time because of an advance or other pre-auction arrangement, then such disposition of the tobacco shall be considered a false identification of the tobacco and may be considered to be a marketing of excess tobacco. In such cases the person who paid the advance, took possession of the tobacco, or made the agreement with the producer which made the producer no longer an ''eligible producer'' with respect to the tobacco, shall be jointly and severally liable with the producer for any penalty with respect to such disposition which is levied against the producer under the provisions of the part. Furthermore, if such disposition is determined to be a marketing of excess tobacco, this person shall be liable for a penalty calculated by using the penalty rate for the tobacco involved multiplied by the pounds of tobacco involved. These remedies shall be in addition to any other remedies which may apply, including but not limited to, any liability for a refund of any price support loan advances which were paid in the name of, or for the account of, the producer of the tobacco.

16. In § 723.411:

a. Redisgnate paragraph (b) introductory text as (b)(1) and paragraphs (b)(1) through (7) and (b)(1)(i) through (vii) respectively.

b. Designate the undesignated paragraph following newly redesignated (b)(1)(vii) as (b)(2).

c. Revise newly redesignated paragraphs (b)(1)(vii) and (b)(2).

d. Redesignate paragraph (c) introductory text as (c)(1) and paragraphs (c)(1) thorugh (c)(6) as (c)(1)(i) through (vi) respectively.

e. Designate the undesignated paragraph following newly redesignated (c)(1)(vi) as (c)(2)

f. Revise newly redesignated paragraphs (c)(1)(vi) and (c)(2).

The revisions read as follows:

§ 723.411 Records and reports regarding hauling, processing, and storage of tobacco.

* * * * *

(b)(1) * * *

(vii) *Persons to whom delivered and pounds involved.*

(2) Any such firm shall report this information to the State FSA office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program and for tobacco purchased at auction or tobacco which was previously reported on Form MQ–79 or MQ–80–C. Where such firm qualifies for the exemption in § 723.405 of this part, such firm is required to report only such tobacco received that does not belong to such firm.

(c)(1) * * *

(vi) *The person to whom delivered and pounds involved.*

(2) Any such firm shall report this information to the State FSA office of the State in which the business is located within 15 days of the end of the marketing year, except for tobacco handled for an association operating the price support program and tobacco purchased by such firm at auction or for which such firm had previously reported on Form MQ–79 or MQ–80–C.

Where such firm qualifies for the exemption in § 723.405 of this part, the firm is only required to report such tobacco received for storage that does not belong to such firm.

17. Revise § 723.412 to read as follows:

§ 723.412 Separate records and reports from persons engaged in tobacco related businesses.

Any person who is required to keep any record or make any report as a warehouse operator, receiving station official, dealer, trucker, or as a person engaged in the hauling, processing, or storage of tobacco and who is engaged in more than one such business, shall keep such records as will enable such person to make separate reports for each such business in which such person is engaged to the same extent for each such business as if the person were engaged in no other business.

18. In § 723.414 revise the section title and paragraphs (a)(2) introductory text, (a)(2)(i), (a)(2)(ii), (b), and (c) to read as follows:

§ 723.414 Failure to keep records and make reports or making false reports or records.

(a) * * *

(2) *Failure to obtain producer marketing card or sale memo.* The failure of any dealer, receiving station official, or warehouse operator to obtain either of the following shall constitute a failure to make a report:

(i) Producer's marketing card, MQ–76, MQ–76–C, or MQ–77, to identify a sale of producer tobacco, or

(ii) Dealer identification card, MQ–79–2, to cover a resale of tobacco.

(b) *False representation—warehouse operators, receiving station officials, dealers, and processors.* The monetary penalties described in this part are in addition to penalties prescribed by other criminal statutes including 18 U.S.C. 231, which provides for a fine of not more than $10,000 or imprisonment for not more than 5 years, or both, for a person convicted of knowingly and willingly committing such acts as making a false acreage report, altering a marketing card, falsely identifying tobacco or buying and selling unused ''103 percent of quota poundage'' on marketing cards.

(c) *Misrepresentation and scheme or device.* A warehouse operator, receiving station official, or dealer who is determined by FSA to have knowingly done one or more of the following, shall pay a marketing quota penalty as prescribed in this part:

(1) Adopted any scheme or device which tends to defeat the purpose of the tobacco program;

(2) Made any fraudulent representation;

(3) Misused a MQ–76, MQ–76–C or MQ–79–2; or

(4) Sold excess tobacco.

19. Add § 723.417 to read as follows:

§ 723.417 Receiving station official's records and reports.

(a) *Report on Form MQ–78–C, Tobacco Receiving Station Registration.* Each receiving station official shall annually, prior to the beginning of the marketing year, furnish the Director, TPD an executed Form MQ–78–C showing:

(1) Form of business organization, buying company name, street address, including city, state and zip code;

(2) Names, street addresses and phone numbers of receiving station official and bookkeeper;

(3) Names, physical addresses and phone numbers of receiving station officials having financial interests in other dealer operations, auction warehouses and other receiving stations; and

(4) Names, addresses and phone numbers of custodians of receiving station records and their locations.

(b) *Separate records and reports.* Each receiving station official shall keep the records and make the reports separately for each quota kind of tobacco as provided in this section.

(c) *Record of marketing.* Each receiving station official shall:

(1) For non-auction receiving station purchases, keep such records as will enable the receiving station official as applicable, to furnish the following information to FSA with respect to each purchase of tobacco made at such receiving station:

(i) The name of the operator of the farm on which the tobacco was produced, including farm serial number, state and county code and the name of the producer, in the case of a sale by a producer;

(ii) Date of purchase;

(iii) Number of pounds purchased; and

(iv) Amount of any penalty.

(2) Reserved.

(d) *Tobacco sale bill for burley and flue-cured tobacco.*

(1) Each receiving station shall use tobacco sale bills furnished at the receiving station's expense showing, as a minimum, the following information:

(i) Tobacco sale bill number;

(ii) Registration number assigned to the receiving station by the Department;

(iii) Name and street address of receiving station where purchase occurred;

(iv) The identification of other producers having an interest in the tobacco;

(v) Date of purchase;

(vi) Number of pounds in each lot;

(vii) Name and address of producer;

(viii) Farm number (including State and county codes) for producer tobacco;

(ix) Poundage balance before purchase for producer tobacco based on 103 percent of farm quota;

(x) Gross number of pounds purchased and balance available for sale after purchase;

(xi) Sale price for each lot and gross purchase price for all lots sold;

(xii) Marketing quota penalty collected; and

(xiii) Amount withheld from purchase price to cover liens due the United States.

(2) At the end of each purchase day, the tobacco sales bills shall be sorted and filed in numerical order by purchase date, and lot tickets shall be filed in an orderly manner by sale dates and by numerical order.

(e) *Identification of tobacco for marketing.*

(1) *Marketing card.* Each marketing of tobacco from a farm in any State for which a farm marketing quota has been established for any kind of tobacco shall be identified by a marketing card (MQ–76–C) issued for the farm on which such tobacco was produced (unless prior to the marketing of such tobacco an Agricultural Marketing Service inspection certification is obtained showing that the tobacco offered for sale is a kind of tobacco not subject to marketing quotas).

(2) *Recording farm identification.* For burley and flue-cured tobacco, at the time the tobacco is staged to be weighed, the receiving station official shall affix a lot ticket containing the operator's name, address, the farm serial number (including the state and county codes) from the marketing card (MQ–76–C) for the farm from which the tobacco is marketed and a unique lot ticket number assigned by the receiving station to the lot of tobacco, provided:

(i) The receiving station official, in order to facilitate scheduling, may stage producer tobacco one purchase day prior to purchase; and

(ii) The receiving station official shall record the unique lot ticket number, the farm serial number (including state and county codes), and the weight of tobacco on the sales bill for the farm at the time of weighing. The price and grade shall be entered at the time of purchase.

(3) *Return of marketing card.* For tobacco that is to be purchased by the receiving station, the receiving station

official shall retain the marketing card (MQ–76–C) until the producer has been paid and the FSA marketing recorder has recorded the sale on the reverse side of the MQ–76–C or the tobacco is removed from the receiving station by the producer, at which time the marketing card (MQ–76–C) shall be returned to the producer. In any case where a producer's marketing card (MQ–76–C) is found in the possession of a receiving station official, and there is no producer from the farm for which the card is issued with tobacco on the floor for sale, or with tobacco for which settlement is not yet complete, such card will be picked up by an FSA representative and returned to the producer. The receiving station official shall be responsible for the safekeeping and proper use of the marketing card during such person's retention of the marketing card.

(4) *Copy of sale bill.* The receiving station official shall furnish to the producer a copy of the tobacco sale bill for any tobacco purchased.

(5) *Lot ticket.* At the time the tobacco is weighed for marketing, the receiving station official shall record the weight of the lot of tobacco on both the tobacco sale bill and the lot ticket. The lot ticket number shall be recorded on the sale bill.

(f) *Non-auction sale to a receiving station.* If the total pounds purchased by a receiving station exceed the balance of the ''103 percent of quota'' on the farm marketing card, the sale bill shall show the pounds on which penalty is due and the amount of the penalty.

(g) *Payee name to be shown on receiving station check.* Any receiving station which issues a check to cover the purchase of tobacco, shall issue such check only in the name of the payee. A receiving station check shall not be issued in the name of the seller and bearer, for example ''John Doe or Bearer.''

(h) *Receiving station data for burley and flue-cured tobacco.*

(1) Each official of a burley or flue-cured receiving station shall prepare, at the end of each sale day, an MQ–80–C, Daily Receiving Station Sales Summary, which is to include the following information:

(i) Total pounds purchased,

(ii) Total gross dollar amount of purchases,

(iii) Total penalty pounds,

(iv) Total amount of penalty,

(v) The applicable farm serial number (including state and county codes) for penalty purchases,

(vi) Beginning sale's bill number (numbers must be sequential during the season and all sale bill numbers must be accounted for),

(vii) Ending sale bill number, and

(viii) Daily weights of producer floor scrap.

(2) As to the information required to be entered on MQ–80–C, Daily Receiving Station Sales Summary, by the marketing recorder, the receiving station official shall keep and make available such records as will enable the marketing recorder to enter thereon the total number of Forms MQ–72–C (manual and electronic) for the purchase day and the sum of the pounds purchased.

(3) At the end of the season, each receiving station official shall:

(i) Report on the final MQ–80–C for the season the quantity of floor scrap on hand, if any, and its location;

(ii) Producer floor scrap tobacco shall be destroyed within five days of the last purchase day and the destruction thereof witnessed by an FSA representative;

(iii) Permit its inspection by an FSA representative; and

(iv) Ship all purchased tobacco within five days of the last purchase day of the marketing season.

(i) *Ship-out record.* For flue-cured and burley tobacco, when the tobacco has been shipped from the receiving station to the processor, the ship-out bill of lading shall include the receiving station registration number, name and address, bill of lading number (must be sequential starting with the first ship-out record), lot ticket numbers for tobacco being shipped, date of shipment and delivery point name and address, and any other information deemed necessary by the Deputy Administrator.

(j) *Producer rejections.* When a producer rejects the sale of a lot of tobacco, and the tobacco has been authorized for payment and the sale bill presented to the producer for approval, the receiving station official shall not change the MQ–76–C or MQ–80–C on which the sale was reported.

(k) A remittance for all penalties shown by the entries on Form MQ–80–C shall be remitted to the marketing recorder on the date the penalty was assessed.

(l) *Producer tobacco.* Producer tobacco (first sale) in possession of a receiving station official which has not previously been identified as a purchase shall be recorded and reported on MQ–80–C as excess tobacco purchased by the receiving station. Penalty shall be due on this tobacco at the full penalty rate for the respective kind of tobacco.

* * * * *

7 CFR Chapter XIV

20. Part 1464 is amended as follows:

PART 1464—TOBACCO

21. The authority citation for 7 CFR 1464 will continue to read as follows:

Authority: 7 U.S.C. 1421, 1423, 1441, 1445, 1445–1 and 1445–2; 15 U.S.C. 714b, 714c.

22. In § 1464.10 revise paragraphs (i)(1)(i), (i)(2), (i)(3)(i), (i)(5) and (j)(1) to read as follows:

§ 1464.10 No net cost tobacco fund or account.

* * * * *

(i) * * *

(1) * * *

(i) From any dealer, warehouse operator, or receiving station official who acquired the tobacco involved from the producer; or

* * * * *

(2) A dealer, warehouse operator, or receiving station official may deduct the amount of any producer contribution or assessment from the price paid to the producer for such tobacco.

(3) * * *

(i) From the dealer, warehouse operator, or receiving station official who acquired the tobacco involved from the producer; or

* * * * *

(5) All dealers, warehouse operators, or receiving station officials who are responsible for collecting any contribution or assessment required by this section shall remit such collections to the applicable association within 15 days of the date on which the tobacco was marketed except as provided in paragraphs (i)(5)(i) and (ii).

* * * * *

(j) * * *

(1) If any dealer, warehouse operator, or receiving station official fails to collect and remit any contributions or assessments according to the provisions of this section, such person shall be liable, in addition to that amount of contributions or assessments and any late payment charges, to a marketing penalty at a rate equal to 75 percent of the average market price (calculated to the nearest whole cent) for the kind of tobacco for the immediately preceding year, on the quantity of tobacco as to which failure occurs. Such a penalty shall only be assessed after the person has been notified of the pending assessment of the penalty and the person has been afforded an opportunity for a hearing with respect to the assessment of the penalty. However, such marketing penalty shall not be assessed if such contributions or assessments are collected and remitted

not later than 15 days after the date required by this part.

* * * * *

Signed at Washington, DC, on December 31, 2002.

Teresa C. Lasseter,

Administrator, Farm Service Agency and Executive Vice-President, Commodity Credit Corporation.

[FR Doc. 03–368 Filed 1–10–03; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–311–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet series 100) series airplanes, that currently requires repetitive lubrication with grease of the sliding shaft of the input plunger of the brake control valve assembly. This action would add requirements for modifying the brake control valve assembly, and subsequent repetitive lubrications of the valve. Accomplishment of the modification would terminate the repetitive lubrications of the sliding shaft of the input plunger required by the existing AD. This proposal is prompted by reports of temporary loss of braking action upon landing. The actions specified by the proposed AD are intended to prevent temporary loss of braking action due to the freezing of moisture of the input plunger of the brake control valve during steep descent.

DATES: Comments must be received by February 12, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000NM–311–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–311–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centreville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7505; fax (516) 568–2716.

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 action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

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 2000–NM–311–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. 2000–NM–311–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 12, 1994, the FAA issued AD 93–21–04, amendment 39–8801 (59 FR 2952, January 20, 1994), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet series 100) series airplanes, to require repetitive lubrication with grease of the sliding shaft of the input plunger of the brake control valve assembly. That action was prompted by reports of temporary loss of braking action upon landing. The requirements of that AD are intended to prevent temporary loss of braking action due to the freezing of moisture on the input plunger of the brake control valve during steep descent.

Action Since Issuance of Previous Rule

Since the issuance of that AD, Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, issued Canadian airworthiness directive CF–93–26R2, dated January 18, 1994, in order to assure the continued airworthiness of these airplanes in Canada. The Canadian airworthiness directive requires, among other things, modifying the brake control valve assembly by installing new greasing provisions, and subsequent repetitive lubrications of the valve using the newly installed grease fittings.

Bombardier has issued Service Bulletin S.B. 601R–32–017, dated November 9, 1993. The service bulletin describes procedures for modification of the brake control valve assembly, and subsequent repetitive lubrications of the valve. Accomplishment of the modification eliminates the need for the existing repetitive lubrications of the sliding shaft of the input plunger required by AD 93–21–04. The modification includes installing a new crossbeam assembly into the dual-brake

control valve, torquing bolts, and inspecting for leaks. The new crossbeam assembly incorporates a lubrication fitting to allow lubrication of the brake control valve plungers. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane model is manufactured in Canada and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCCA, 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 supersede AD 93–21–04 to continue to require lubrication with grease of the sliding shaft of the input plunger of the brake control valve assembly. The proposed AD would add requirements for modifying the brake control valve assembly; and subsequent repetitive lubrications of the valve. Accomplishment of the modification would terminate the repetitive lubrications of the sliding shaft of the input plunger. The new actions would be required to be accomplished in accordance with the service bulletin described previously.

Differences Between Proposed Rule and Canadian Airworthiness Directive

The proposed AD would differ from the parallel Canadian airworthiness directive in that it would NOT require the following actions:

- Revising the Airplane Flight Manual to provide the flightcrew with operational procedures for abnormal brake-pedal action; and
- Cleaning and drying the bushings and plungers, and applying lubricant to these components.

We have determined that these actions are unnecessary because those actions are intended to mitigate the identified unsafe condition before accomplishment of Bombardier Service Bulletin 601R–32–017. The modification of the brake control valve assembly and subsequent lubrication schedule specified in that service bulletin render the preceding actions unnecessary. TCCA has no objections to our proposed requirements.

Cost Impact

There are approximately 2 Model CL–600–2B19 (Regional Jet series 100) series airplanes of U.S. registry that are affected by AD 93–21–04. The actions that are currently required by that AD take 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 currently required actions on U.S. operators is estimated to be $120, or $60 per airplane.

There are approximately 194 Model CL–600–2B19 series airplanes of U.S. registry that would be affected by this proposed AD.

The modification that is proposed in this AD action would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $3,812 per airplane. Based on these figures, the cost impact of the proposed modification of this AD on U.S. operators is estimated to be $786,088, or $4,052 per airplane.

The lubrication of the brake control valve that is proposed in this AD action would take 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 this proposed lubrication of this AD on U.S. operators is estimated to be $11,640, or $60 per airplane, per lubrication.

The cost impact figures discussed above are 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. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

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 removing amendment 39–8801 (59 FR 2952, January 20, 1994), and by adding a new airworthiness directive (AD), to read as follows:

Bombardier, Inc. (Formerly Canadair): Docket 2000–NM–311–AD. Supersedes AD 93–21–04, Amendment 39–8801.

Applicability: Model CL–600–2B19 (Regional Jet series 100) series airplanes, serial numbers 7003 and subsequent, 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)(1) 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 temporary loss of braking action due to the freezing of moisture on the input plunger of the brake control valve during steep descent, accomplish the following:

Requirements of AD 93–21–04

Lubrications

(a) Within 3 days after February 4, 1994 (the effective date of AD 93–21–04, amendment 39–8801), and thereafter at intervals not to exceed 3 days, lubricate with grease the sliding shaft of the input plunger of the brake control valve assembly per Canadair Regional Jet Alert Service Bulletin S.B.A601R–32–016, dated October 14, 1993, until modification of the brake control valve, as required by paragraph (b) of this AD, is accomplished.

New Actions Required By This AD

Modification

(b) Within 12 months after the effective date of this AD: Modify the brake control valve assembly by accomplishing all the actions specified in Bombardier Service Bulletin S.B. 601R–32–017, dated November 9, 1993, per the service bulletin. Such modification terminates the repetitive lubrications of the sliding shaft of the input plunger of the brake control valve assembly required by paragraph (a) of this AD.

Repetitive Lubrications

(c) Within 1,500 flight hours after doing the modification required by paragraph (b) of this AD, and thereafter at intervals of 1,500 flight hours, lubricate with grease the brake control valve per paragraph 2.B.(18) of the Accomplishment Instructions of Bombardier Service Bulletin S.B. 601R–32–017, dated November 9, 1993.

Alternative Methods of Compliance

(d)(1) 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 Aircraft Certification Office (ACO), FAA. 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.

(2) Alternative methods of compliance, approved previously in accordance with AD 93–21–04, amendment 39–8801, are approved as alternative methods of compliance with this AD.

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.

Note 2: The subject of this AD is addressed in Canadian airworthiness directive CF–93–26R2, dated January 18, 1994.

Issued in Renton, Washington, on January 7, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–642 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 1

[Docket Nos. 02N–0276 and 02N–0278]

Proposed Regulations Implementing Title III of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002; Notice of Public Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; satellite downlink public meeting.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public meeting (via satellite downlink) to discuss proposed regulations implementing two sections in Title III of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Bioterrorism Act) regarding Registration of Food Facilities (Docket No. 02N–0276) and Prior Notice of Imported Food Shipments (Docket No. 02N–0278). FDA expects to publish shortly in the **Federal Register** proposed rules implementing each of these provisions. The purpose of the satellite downlink public meeting is to provide information on the proposed rules to the public and to provide the public an opportunity to ask questions or to provide comment.

DATES: Satellite Downlink Public Meeting I—Wednesday, January 29, 2003, 1 to 3 p.m. eastern standard time. Questions submitted in advance must be received by the contact person by close of business (4:30 p.m.) on January 24, 2003.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations where the satellite downlink may be viewed. A written transcript of the meeting will be available for viewing at Dockets Management Branch (DMB) (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, and through the Web site at http://www.fda.gov/oc/bioterrorism/bioact.html. A copy of the videotaped meeting may also be viewed at DMB.

FOR FURTHER INFORMATION CONTACT: Louis J. Carson, Center for Food Safety and Applied Nutrition (HFS–32), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2130, FAX: 301–436–2605, e-mail: Louis.Carson@cfsan.fda.gov, for general questions about the downlink, submission of advance questions, and requests for a taped version of the meeting. Registration for specific downlink locations should be directed to the appropriate contact person listed in table 1 in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION: The events of September 11, 2001, highlighted the need to enhance the security of the U.S. food supply. Congress responded by passing the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (Public Law 107–188), which was signed into law on June 12, 2002. The Bioterrorism Act includes four provisions in Title III (Protecting Safety and Security of Food and Drug Supply), Subtitle A (Protection of Food Supply) that require the Secretary of Health and Human Services, through FDA, to develop implementing regulations on an expedited basis. These four provisions are section 305 (Registration of Food Facilities); section 307 (Prior Notice of Imported Food Shipments); section 306 (Maintenance and Inspection of Records for Foods); and section 303 (Administrative Detention). FDA soon will be publishing in the **Federal Register** notices of proposed rulemakings for each of these provisions. During the satellite downlink public meeting, FDA will explain the proposed rules on Registration of Food Facilities and Prior Notice of Imported Food Shipments and will answer questions. The satellite downlink public meeting will be offered in English with French and Spanish translation and will be simulcast live in English, French, and Spanish for North, Central, and South America (including, Hawaii and Alaska).

Interested persons may submit questions concerning the proposals in advance of the downlink meeting. The deadline for the submission of questions is provided in the **DATES** section of this notice. Questions submitted in advance will be used by the session moderator to help clarify issues of concern and provide information about the

proposals. The viewing audience may telephone or fax questions to FDA officials during the live downlink.

FDA is planning a second satellite downlink meeting during which FDA will explain the proposed rules that FDA will publish shortly to implement sections 306 and 303 of the Bioterrorism Act. That meeting will be announced in a future **Federal Register** notice. FDA also plans to develop additional regulations, safety measures, and guidance documents to implement other provisions of the Bioterrorism Act. Information about the public meetings, a list of additional non-FDA Web sites for viewing the public meetings, contact information, the provisions of the Bioterrorism Act under FDA's jurisdiction, and the agency's implementation plans are available at http://www.fda.gov/oc/bioterrorism/bioact.html.

Proposed rules

The proposed regulations that will be addressed at the satellite downlink public meeting announced in this document concern the following provisions of the Bioterrorism Act:

• *Section 305: Registration of Food Facilities*—The Bioterrorism Act requires the owner, operator, or agent-in-charge of domestic and foreign facilities that manufacture, process, pack, or hold food for human or animal consumption in the United States to register with FDA no later than December 12, 2003. Farms, restaurants, retail food establishments, non-profit food establishments that prepare or serve food directly to the consumer, and fishing vessels not engaged in processing, as defined in 21 CFR 123.3(k), are exempt from this requirement. Also exempt are foreign facilities if the food from the facility undergoes further processing or packaging by another facility outside of the United States. FDA must issue final regulations no later than December 12, 2003, but facilities must register by this date in accordance with the Bioterrorism Act even if the regulations are not finalized. FDA plans to publish a final rule by October 12, 2003.

• *Section 307: Prior Notice of Imported Food Shipments*—The Bioterrorism Act specifies that on or after December 12, 2003, FDA must receive prior notice of each article of food imported or offered for import into the United States. FDA must issue the final regulation by December 12, 2003. If the regulation is not final by that date, the Bioterrorism Act still requires FDA to receive prior notice of not less than 8 hours and not more than 5 days until the regulation takes effect. The agency plans to publish a final rule by October 12, 2003.

A list of non-FDA parties providing other locations for viewing the downlink is provided in table 1 of this document. The parties listed are providing this service free of charge in the interest of providing information to their constituents and to assist in creating a public process.

TABLE 1.—SATELLITE DOWNLINK PUBLIC MEETING I—SECTION 305: REGISTRATION OF FOOD FACILITIES AND SECTION 307: PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS

Date: January 29, 2003
Locations and Contact Information:
Location: Advanced Training Center, 275 Oak St., Buffalo, NY 14203, 716–855–7050 **Contact**: Diana Monaco, U.S. FDA/Buffalo Office, 300 Pearl St., suite 100, Buffalo, NY 14202, 716–551–4461, ext. 3118, FAX: 716–551–3845, e-mail: dmonaco@ora.fda.gov
Location: U.S. FDA, Chicago District Office, 550 W. Jackson Blvd., 16th floor, Chicago, IL 60661, 312–596–4205 **Contact**: Darlene Bailey, U.S. FDA/Chicago District Office, 550 W. Jackson Blvd., Chicago, IL 60661, 312–596–4205, FAX: 312–596–4170, e-mail: dbailey@ora.fda.gov
Location: Lake Washington Technical School, 11605 132nd Ave. NE., rm. W–404, Kirkland, WA 98034, 425–739–8100 **Contact**: Sue Hutchcroft, U.S. FDA/Seattle District Office, 22201 23rd Dr., SE., Bothell, WA 98021, 425–483–4953, FAX: 425–483–4996, e-mail: shutchcr@ora.fda.gov
Location: VA Medical Center, 4th Floor Auditorium, 2002 Holcombe Blvd., Houston, TX 77030, 713–794–7143 **Contact**: Sheryl McConnell, U.S. FDA/Dallas District Office Houston Resident Post, 1445 North Loop, West, suite 420, Houston, TX 77008, 713–802–9095, ext. 115, FAX: 713–802–0906, e-mail: smcconne@ora.fda.gov
Location: Laredo Public Library, 1120 East Calton Rd., Laredo, TX 78041, 956–795–2400 **Contact**: Julio Salazar, U.S. FDA/Southwest Import District, 715 Bob Bullock Loop, rm. 75, Laredo, TX 78045, 956–729–9691, ext. 1103, FAX: 956–729–0997, e-mail: jsalazar@ora.fda.gov

TABLE 1.—SATELLITE DOWNLINK PUBLIC MEETING I—SECTION 305: REGISTRATION OF FOOD FACILITIES AND SECTION 307: PRIOR NOTICE OF IMPORTED FOOD SHIPMENTS—Continued

Date: January 29, 2003
Locations and Contact Information:
Location: Center for Food Safety and Applied Nutrition, U.S. FDA, Auditorium, 5100 Paint Branch Pkwy., College Park, MD, 301–436–2428 **Contact**: Tonya Poindexter, U.S. FDA/Center for Food Safety and Applied Nutrition, rm. 3B035, College Park, MD, 301–436–1544, FAX: 301–436–1584, e-mail: tonya.poindexter@cfsan.fda.gov

Registration: To register for the satellite downlink public meeting, contact the persons listed previously for the site you want to attend. Space is limited and registration will be closed at each site when maximum seating capacity for that site is reached (between 100–200 persons per site). Send registration information (including name, title, firm name, address, telephone number, e-mail address, and fax number) to the contact identified in table 1 of this document at least 2 workdays before the meeting. You may register by e-mail, fax, or telephone.

If you need special accommodations due to a disability, please notify the contact person listed in table 1 of this document at least 7 days in advance of the meeting.

In addition, any interested parties with access to a satellite dish may view the downlink meetings at the following coordinates:

Live simulcast in English (channel 6.8), French (channel 5.8), and Spanish (channel 6.2)

For the United States (including Alaska and Hawaii) and Canada

C Band
Galaxy 9 @ 127 degrees west
Ch 3 Horizontal
Downlink frequency 3740 MHz

For South and Central America

Digital
PAS 9 @ 58 west
Slot A Digital -
Ch 24 Horizontal
Downlink frequency 4160 MHz

Video rebroadcasts will be played at several locations throughout the world. Dates, and viewing times for the video rebroadcasts for Europe, Asia, Australia, New Zealand can be found on FDA's bioterrorism Web site (http://www.fda.gov/oc/bioterrorism/bioact.html). Information on additional video rebroadcasts in English, Spanish,

and French will also be available at http://www.fda.gov/oc/bioterrorism/bioact.html.

Transcripts: Within 3 weeks of the satellite downlink public meeting, written transcripts in English, French, and Spanish will be available for viewing at DMB (see **ADDRESSES**) and posted on the following Web sites: http://www.fda.gov/oc/bioterrorism/bioact.html. A written transcript of the satellite downlink meeting may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, within 3 weeks of the satellite downlink public meeting at a cost of 10 cents per page. Contact Lou Carson for a copy of the videotaped meeting. A copy of the video taped meeting may also be viewed at DMB.

Dated: January 3, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–660 Filed 1–8–03; 4:09 pm]

BILLING CODE 4160–01–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 55

[FRL–7437–9]

Outer Continental Shelf Air Regulations; Consistency Update for California

AGENCY: Environmental Protection Agency (''EPA'').

ACTION: Proposed rule—consistency update.

SUMMARY: EPA is proposing to update a portion of the Outer Continental Shelf (''OCS'') Air Regulations. Requirements applying to OCS sources located within 25 miles of states' seaward boundaries must be updated periodically to remain consistent with the requirements of the corresponding onshore area (''COA''), as mandated by section 328(a)(1) of the Clean Air Act, as amended in 1990 (''the Act''). The portion of the OCS air regulations that is being updated pertains to the requirements for OCS sources for which the Santa Barbara County Air Pollution Control District (Santa Barbara County APCD), South Coast Air Quality Management District (South Coast AQMD) and Ventura County Air Pollution Control District (Ventura County APCD) are the designated COAs. The intended effect of approving the OCS requirements for the above Districts is to regulate emissions from OCS sources in accordance with the requirements onshore. The changes to the existing requirements discussed below are proposed to be incorporated by reference into the Code of Federal Regulations and are listed in the appendix to the OCS air regulations.

DATES: Comments on the proposed update must be received on or before February 12, 2003.

ADDRESSES: Comments must be mailed (in duplicate if possible) to: EPA Air Docket (Air–4), Attn: Docket No. A–93–16 Section XXVII, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

DOCKET: Supporting information used in developing the rule and copies of the documents EPA is proposing to incorporate by reference are contained in Docket No. A–93–16 Section XXVII. This docket is available for public inspection and copying Monday—Friday during regular business hours at the following locations:

EPA Air Docket (Air–4), Attn: Docket No. A–93–16 Section XXVII, Environmental Protection Agency, Air Division, Region 9, 75 Hawthorne St., San Francisco, CA 94105.

EPA Air Docket (LE–131), Attn: Air Docket No. A–93–16 Section XXVII, Environmental Protection Agency, Air Docket (6102), Ariel Rios Building, 1200 Pennsylvania Avenue, NW., Washington DC 20460.

A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, Air Division (Air–4), U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, CA 94105, (415) 947–4125.

I. Background information

A. Why is EPA taking this action?

On September 4, 1992, EPA promulgated 40 CFR part 55,[1] which established requirements to control air pollution from OCS sources in order to attain and maintain federal and state ambient air quality standards and to comply with the provisions of part C of title I of the Act. Part 55 applies to all OCS sources offshore of the States except those located in the Gulf of Mexico west of 87.5 degrees longitude. Section 328 of the Act requires that for such sources located within 25 miles of a state's seaward boundary, the requirements shall be the same as would be applicable if the sources were located in the COA. Because the OCS requirements are based on onshore requirements, and onshore requirements may change, section 328(a)(1) requires that EPA update the OCS requirements as necessary to maintain consistency with onshore requirements.

Pursuant to § 55.12 of the OCS rule, consistency reviews will occur (1) at least annually; (2) upon receipt of a Notice of Intent under § 55.4; or (3) when a state or local agency submits a rule to EPA to be considered for incorporation by reference in part 55. This proposed action is being taken in response to the submittal of rules by three local air pollution control agencies. Public comments received in writing within 30 days of publication of this document will be considered by EPA before publishing a final rule.

Section 328(a) of the Act requires that EPA establish requirements to control air pollution from OCS sources located within 25 miles of states' seaward boundaries that are the same as onshore requirements. To comply with this statutory mandate, EPA must incorporate applicable onshore rules into part 55 as they exist onshore. This limits EPA's flexibility in deciding which requirements will be incorporated into part 55 and prevents EPA from making substantive changes to the requirements it incorporates. As a result, EPA may be incorporating rules into part 55 that do not conform to all of EPA's state implementation plan (SIP) guidance or certain requirements of the Act. Consistency updates may result in the inclusion of state or local rules or regulations into part 55, even though the same rules may ultimately be disapproved for inclusion as part of the SIP. Inclusion in the OCS rule does not imply that a rule meets the requirements of the Act for SIP approval, nor does it imply that the rule will be approved by EPA for inclusion in the SIP.

II. EPA's Evaluation

A. What criteria were used to evaluate rules submitted to update 40 CFR part 55?

In updating 40 CFR part 55, EPA reviewed the rules submitted for inclusion in part 55 to ensure that they are rationally related to the attainment or maintenance of federal or state ambient air quality standards or part C of title I of the Act, that they are not designed expressly to prevent exploration and development of the OCS and that they are applicable to OCS sources. 40 CFR 55.1. EPA has also evaluated the rules to ensure they are not arbitrary or capricious. 40 CFR 55.12 (e). In addition, EPA has excluded

[1] The reader may refer to the Notice of Proposed Rulemaking, December 5, 1991 (56 FR 63774), and the preamble to the final rule promulgated September 4, 1992 (57 FR 40792) for further background and information on the OCS regulations.

administrative or procedural rules,[2] and requirements that regulate toxics which are not related to the attainment and maintenance of federal and state ambient air quality standards.

B. What rule revisions were submitted to update 40 CFR part 55?

1. After review of the rule submitted by Santa Barbara County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following new rule applicable to OCS sources for which the Santa Barbara County APCD is designated as the COA:

Rule #	Rule names	Adoption date
360	Emissions of Oxide of Nitrogen from Large Water Heaters and Small Boilers	10/17/02

2. After review of the rules submitted by South Coast AQMD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following new rule applicable to OCS sources for which the South Coast AQMD is designated as the COA (note: no requirements that are not related to the attainment and maintenance of federal and state ambient air quality standards will be incorporated to regulate toxics):

Rule #	Rule names	Adoption date
1168	Adhesive and Sealant applications	07/12/02
1171	Solvent Cleaning Operations	08/02/02

3. After review of the rule submitted by Ventura County APCD against the criteria set forth above and in 40 CFR part 55, EPA is proposing to make the following rule correction for a previous submitted rule applicable to OCS source for which the Ventura County APCD is designated as the COA:

Rule #	Rule names	Adoption date
74.9	Stationary Internal Combustion Engines	11/14/00

[2] Each COA which has been delegated the authority to implement and enforce part 55, will use its administrative and procedural rules as onshore. However, in those instances where EPA has not delegated authority to implement and enforce part 55, EPA will use its own administrative and procedural requirements to implement the substantive requirements. 40 CFR 55.14 (c)(4).

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 13045

Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

C. Executive Order 13175

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 6, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes.''

This proposed rule does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule. In the spirit of Executive Order 13175, and consistent with EPA policy to promote communications between EPA and tribal governments, EPA specifically solicits additional comment on this proposed rule from tribal officials.

D. Executive Order 13132

Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612, Federalism and 12875, Enhancing the Intergovernmental Partnership. Executive Order 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 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 proposed 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 Executive Order 13132, because it merely acts on a state rule implementing a federal standard, and 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 proposed rule.

E. Regulatory Flexibility Act, as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et. seq.

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis for any rule that will have a significant economic impact on a substantial number of small entities. The RFA applies only to rules 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 proposed rule will not have a significant impact on a substantial number of small entities because consistency updates do not create any new requirements but simply act on requirements that the State is already imposing. Therefore, because the consistency update approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the proposed action does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This proposed Federal action acts on pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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.

EPA believes that VCS are inapplicable to today's proposed action because it does not require the public to perform activities conducive to the use of VCS.

H. Executive Order 13211 (Energy Effects)

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant action under Executive Order 12866.

List of Subjects in 40 CFR Part 55

Environmental protection, Administrative practice and procedures, Air pollution control, Continental shelf, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 24, 2002

Jack P. Broadbent,

Acting Regional Administrator, Region IX.

Title 40 of the Code of Federal Regulations, part 55, is proposed to be amended as follows:

PART 55—[AMENDED]

1. The authority citation for part 55 continues to read as follows:

Authority: Section 328 of the Clean Air Act (42 U.S.C. 7401 *et seq.*) as amended by Public Law 101–549.

2. Section 55.14 is proposed to be amended by revising paragraphs (e)(3)(ii) (F),(G) and (H) to read as follows:

§ 55.14 Requirements that apply to OCS sources located within 25 miles of States seaward boundaries, by State.

* * * * *

(e) * * *

(3) * * *

(ii) * * *

(F) *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources.*

(G) *South Coast Air Quality Management District Requirements Applicable to OCS Sources.*

(H) *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources.*

* * * * *

APPENDIX TO PART 55—[AMENDED]

3. Appendix A to CFR part 55 is proposed to be amended by revising paragraph (b)(6), (7) and (8) under the heading ''California'' to read as follows:

Appendix A to 40 CFR Part 55—Listing of State and Local Requirements Incorporated by Reference Into Part 55, by State

* * * * *

California

* * * * *

(b) Local requirements.

* * * * *

(6) The following requirements are contained in *Santa Barbara County Air Pollution Control District Requirements Applicable to OCS Sources:*

Rule 102 Definitions (Adopted 5/20/99)
Rule 103 Severability (Adopted 10/23/78)
Rule 106 Notice to Comply for Minor Violations (Adopted 7/15/99)
Rule 201 Permits Required (Adopted 4/17/97)
Rule 202 Exemptions to Rule 201 (Adopted 4/17/97)
Rule 203 Transfer (Adopted 4/17/97)
Rule 204 Applications (Adopted 4/17/97)
Rule 205 Standards for Granting Applications (Adopted 4/17/97)
Rule 206 Conditional Approval of Authority To Construct or Permit To Operate (Adopted 10/15/91)
Rule 207 Denial of Application (Adopted 10/23/78)
Rule 210 Fees (Adopted 4/17/97)
Rule 212 Emission Statements (Adopted 10/20/92)
Rule 301 Circumvention (Adopted 10/23/78)
Rule 302 Visible Emissions (Adopted 10/23/78)
Rule 304 Particulate Matter—Northern Zone (Adopted 10/23/78)
Rule 305 Particulate Matter Concentration—Southern Zone (Adopted 10/23/78)
Rule 306 Dust and Fumes—Northern Zone (Adopted 10/23/78)
Rule 307 Particulate Matter Emission Weight Rate—Southern Zone (Adopted 10/23/78)
Rule 308 Incinerator Burning (Adopted 10/23/78)
Rule 309 Specific Contaminants (Adopted 10/23/78)
Rule 310 Odorous Organic Sulfides (Adopted 10/23/78)
Rule 311 Sulfur Content of Fuels (Adopted 10/23/78)
Rule 312 Open Fires (Adopted 10/2/90)
Rule 316 Storage and Transfer of Gasoline (Adopted 4/17/97)
Rule 317 Organic Solvents (Adopted 10/23/78)
Rule 318 Vacuum Producing Devices or Systems—Southern Zone (Adopted 10/23/78)
Rule 321 Solvent Cleaning Operations (Adopted 9/18/97)
Rule 322 Metal Surface Coating Thinner and Reducer (Adopted 10/23/78)
Rule 323 Architectural Coatings (Adopted 11/15/01)
Rule 324 Disposal and Evaporation of Solvents (Adopted 10/23/78)
Rule 325 Crude Oil Production and Separation (Adopted 7/19/01)
Rule 326 Storage of Reactive Organic Liquid Compounds (Adopted 1/18/01)

Rule 327 Organic Liquid Cargo Tank Vessel Loading (Adopted 12/16/85)
Rule 328 Continuous Emission Monitoring (Adopted 10/23/78)
Rule 330 Surface Coating of Miscellaneous Metal Parts and Products (Adopted 1/20/00)
Rule 331 Fugitive Emissions Inspection and Maintenance (Adopted 12/10/91)
Rule 332 Petroleum Refinery Vacuum Producing Systems, Wastewater Separators and Process Turnarounds (Adopted 6/11/79)
Rule 333 Control of Emissions From Reciprocating Internal Combustion Engines (Adopted 4/17/97)
Rule 342 Control of Oxides of Nitrogen (NO_X) From Boilers, Steam Generators and Process Heaters) (Adopted 4/17/97)
Rule 343 Petroleum Storage Tank Degassing (Adopted 12/14/93)
Rule 344 Petroleum Sumps, Pits, and Well Cellars (Adopted 11/10/94)
Rule 346 Loading of Organic Liquid Cargo Vessels (Adopted 1/18/01)
Rule 352 Natural Gas-Fired Fan-Type Central Furnaces and Residential Water Heaters (Adopted 9/16/99)
Rule 353 Adhesives and Sealants (Adopted 8/19/99)
Rule 359 Flares and Thermal Oxidizers (6/28/94)
Rule 360 Emissions of Oxides of Nitrogen From Large Water Heaters and Small Boilers (Adopted 10/17/02)
Rule 370 Potential To Emit—Limitations for Part 70 Sources (Adopted 6/15/95)
Rule 505 Breakdown Conditions Sections A.,B.1, and D. only (Adopted 10/23/78)
Rule 603 Emergency Episode Plans (Adopted 6/15/81)
Rule 702 General Conformity (Adopted 10/20/94)
Rule 801 New Source Review (Adopted 4/17/97)
Rule 802 Nonattainment Review (Adopted 4/17/97)
Rule 803 Prevention of Significant Deterioration (Adopted 4/17/97)
Rule 804 Emission Offsets (Adopted 4/17/97)
Rule 805 Air Quality Impact Analysis and Modeling (Adopted 4/17/97)
Rule 808 New Source Review for Major Sources of Hazardous Air Pollutants (Adopted 5/20/99)
Rule 1301 Part 70 Operating Permits—General Information (Adopted 4/17/97)
Rule 1302 Part 70 Operating Permits—Permit Application (Adopted 11/09/93)
Rule 1303 Part 70 Operating Permits—Permits (Adopted 11/09/93)
Rule 1304 Part 70 Operating Permits—Issuance, Renewal, Modification and Reopening (Adopted 11/09/93)
Rule 1305 Part 70 Operating Permits—Enforcement (Adopted 11/09/93)

(7) *The following requirements are contained in South Coast Air Quality Management District Requirements Applicable to OCS Sources* (Parts I, II and III):

Rule 102 Definition of Terms (Adopted 10/19/01)
Rule 103 Definition of Geographical Areas (Adopted 1/9/76)
Rule 104 Reporting of Source Test Data and Analyses (Adopted 1/9/76)
Rule 108 Alternative Emission Control Plans (Adopted 4/6/90)
Rule 109 Recordkeeping for Volatile Organic Compound Emissions (Adopted 8/18/00)
Rule 112 Definition of Minor Violation and Guidelines for Issuane of Notice To Comply (Adopted 11/13/98)
Rule 118 Emergencies (Adopted 12/7/95)
Rule 201 Permit to Construct (Adopted 1/5/90)
Rule 201.1 Permit Conditions in Federally Issued Permits to Construct (Adopted 1/5/90)
Rule 202 Temporary Permit to Operate (Adopted 5/7/76)
Rule 203 Permit to Operate (Adopted 1/5/90)
Rule 204 Permit Conditions (Adopted 3/6/92)
Rule 205 Expiration of Permits to Construct (Adopted 1/5/90)
Rule 206 Posting of Permit to Operate (Adopted 1/5/90)
Rule 207 Altering or Falsifying of Permit (Adopted 1/9/76)
Rule 208 Permit and Burn Authorization for Open Burning (12/21/01)
Rule 209 Transfer and Voiding of Permits (Adopted 1/5/90)
Rule 210 Applications and Regulation II—List and Criteria Identifying Information required of Applicants Seeking a Permit to Construct from the SCAQMD (Adopted 4/10/98)
Rule 212 Standards for Approving Permits (Adopted 12/7/95) except (c)(3) and (e)
Rule 214 Denial of Permits (Adopted 1/5/90)
Rule 217 Provisions for Sampling and Testing Facilities (Adopted 1/5/90)
Rule 218 Continuous Emission Monitoring (Adopted 5/14/99)
Rule 218.1 Continuous Emission Monitoring Performance Specifications (Adopted 5/14/99)
Rule 218.1 Attachment A—Supplemental and Alternative CEMS Performance Requirements (Adopted 5/14/99)
Rule 219 Equipment Not Requiring a Written Permit Pursuant to Regulation II (Adopted 11/17/00)
Rule 220 Exemption—Net Increase in Emissions (Adopted 8/7/81)
Rule 221 Plans (Adopted 1/4/85)
Rule 301 Permit Fees (Adopted 5/11/01) except (e)(7)and Table IV
Rule 304 Equipment, Materials, and Ambient Air Analyses (Adopted 5/11/01)
Rule 304.1 Analyses Fees (Adopted 5/11/01)
Rule 305 Fees for Acid Deposition (Adopted 10/4/91)
Rule 306 Plan Fees (Adopted 5/11/01)
Rule 309 Fees for Regulation XVI Plans (Adopted 5/11/01)
Rule 401 Visible Emissions (Adopted 11/9/01)
Rule 403 Fugitive Dust (Adopted 12/11/98)
Rule 404 Particulate Matter—Concentration (Adopted 2/7/86)
Rule 405 Solid Particulate Matter—Weight (Adopted 2/7/86)
Rule 407 Liquid and Gaseous Air Contaminants (Adopted 4/2/82)
Rule 408 Circumvention (Adopted 5/7/76)
Rule 409 Combustion Contaminants (Adopted 8/7/81)
Rule 429 Start-Up and Shutdown Provisions for Oxides of Nitrogen (Adopted 12/21/90)
Rule 430 Breakdown Provisions, (a)and (e)only (Adopted 7/12/96)
Rule 431.1 Sulfur Content of Gaseous Fuels (Adopted 6/12/98)
Rule 431.2 Sulfur Content of Liquid Fuels (Adopted 9/15/00)
Rule 431.3 Sulfur Content of Fossil Fuels (Adopted 5/7/76)
Rule 441 Research Operations (Adopted 5/7/76)
Rule 442 Usage of Solvents (Adopted 12/15/00)
Rule 444 Open Burning (Adopted 12/21/01)
Rule 463 Organic Liquid Storage (Adopted 3/11/94)
Rule 465 Vacuum Producing Devices or Systems (Adopted 8/13/99)
Rule 468 Sulfur Recovery Units (Adopted 10/8/76)
Rule 473 Disposal of Solid and Liquid Wastes (Adopted 5/7/76)
Rule 474 Fuel Burning Equipment-Oxides of Nitrogen (Adopted 12/4/81)
Rule 475 Electric Power Generating Equipment (Adopted 8/7/78)
Rule 476 Steam Generating Equipment (Adopted 10/8/76)
Rule 480 Natural Gas Fired Control Devices (Adopted 10/7/77) Addendum to Regulation IV (Effective 1977)
Rule 518 Variance Procedures for Title V Facilities (Adopted 8/11/95)
Rule 518.1 Permit Appeal Procedures for Title V Facilities (Adopted 8/11/95)
Rule 518.2 Federal Alternative Operating Conditions (Adopted 12/21/01)
Rule 701 Air Pollution Emergency Contingency Actions (Adopted 6/13/97)
Rule 702 Definitions (Adopted 7/11/80)
Rule 708 Plans (Rescinded 9/8/95)
Regulation IX—New Source Performance Standards (Adopted 5/11/01)
Reg. X National Emission Standards for Hazardous Air Pollutants (NESHAPS) (Adopted 5/11/01)
Rule 1106 Marine Coatings Operations (Adopted 1/13/95)
Rule 1107 Coating of Metal Parts and Products (Adopted 11/9/01)
Rule 1109 Emissions of Oxides of Nitrogen for Boilers and Process Heaters in Petroleum Refineries (Adopted 8/5/88)
Rule 1110 Emissions from Stationary Internal Combustion Engines (Demonstration) (Adopted 11/14/97)
Rule 1110.1 Emissions from Stationary Internal Combustion Engines (Adopted 10/4/85)
Rule 1110.2 Emissions from Gaseous- and Liquid Fueled Internal Combustion Engines (Adopted 11/14/97)
Rule 1113 Architectural Coatings (Adopted 7/20/01)
Rule 1116.1 Lightering Vessel Operations-Sulfur Content of Bunker Fuel (Adopted 10/20/78)
Rule 1121 Control of Nitrogen Oxides from Residential-Type Natural Gas-Fired Water Heaters (Adopted 12/10/99)
Rule 1122 Solvent Degreasers (Adopted 9/21/01)

Rule 1123 Refinery Process Turnarounds (Adopted 12/7/90)
Rule 1125 Metal Containers, Closure, and Coil Coating Operations (adopted 1/13/95)
Rule 1132 Further Control of VOC Emissions from High-Emitting Spray Booth Facilitites (Adopted 1/19/01)
Rule 1134 Emissions of Oxides of Nitrogen from Stationary Gas Turbines (Adopted 8/8/97)
Rule 1136 Wood Products Coatings (Adopted 6/14/96)
Rule 1137 PM10 Emission Reductions from Woodworking Operations (Adopted 2/01/02)
Rule 1140 Abrasive Blasting (Adopted 8/2/85)
Rule 1142 Marine Tank Vessel Operations (Adopted 7/19/91)
Rule 1146 Emissions of Oxides of Nitrogen from Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 11/17/00)
Rule 1146.1 Emission of Oxides of Nitrogen from Small Industrial, Institutional, and Commercial Boilers, Steam Generators, and Process Heaters (Adopted 5/13/94)
Rule 1146.2 Emissions of Oxides of Nitrogen from Large Water Heaters and Small Boilers (Adopted 1/9/98)
Rule 1148 Thermally Enhanced Oil Recovery Wells (Adopted 11/5/82)
Rule 1149 Storage Tank Degassing (Adopted 7/14/95)
Rule 1168 Adhesive and Sealant Applications (Adopted 6/07/02)
Rule 1171 Solvent Cleaning Operations (Adopted 08/2/02)
Rule 1173 Fugitive Emissions of Volatile Organic Compounds (Adopted 5/13/94)
Rule 1176 VOC Emissions from Wastewater Systems (Adopted 9/13/96)
Rule 1178 Further Reductions of VOC Emissions from Storage Tanks at Petroleum Facilities (Adopted 12/21/01)
Rule 1301 General (Adopted 12/7/95)
Rule 1302 Definitions (Adopted 10/20/00)
Rule 1303 Requirements (Adopted 4/20/01)
Rule 1304 Exemptions (Adopted 6/14/96)
Rule 1306 Emission Calculations (Adopted 10/20/00)
Rule 1313 Permits to Operate (Adopted 12/7/95)
Rule 1403 Asbestos Emissions from Demolition/Renovation Activities (Adopted 4/8/94)
Rule 1605 Credits for the Voluntary Repair of On-Road Vehicles Identified Through Remote Sensing Devices (Adopted 10/11/96)
Rule 1610 Old-Vehicle Scrapping (Adopted 2/12/99)
Rule 1612 Credits for Clean On-Road Vehicles (Adopted 7/10/98)
Rule 1612.1 Mobile Source Credit Generation Pilot Program (Adopted 3/16/01)
Rule 1620 Credits for Clean Off-Road Mobile Equipment (Adopted 7/10/98)
Rule 1701 General (Adopted 8/13/99)
Rule 1702 Definitions (Adopted 8/13/99)
Rule 1703 PSD Analysis (Adopted 10/7/88)
Rule 1704 Exemptions (Adopted 8/13/99)
Rule 1706 Emission Calculations (Adopted 8/13/99)
Rule 1713 Source Obligation (Adopted 10/7/88)
Regulation XVII Appendix (effective 1977)
Rule 1901 General Conformity (Adopted 9/9/94)
Rule 2000 General (Adopted 5/11/01)
Rule 2001 Applicability (Adopted 2/14/97)
Rule 2002 Allocations for Oxides of Nitrogen (NO_X) and Oxides of Sulfur (SO_X) Emissions (Adopted 5/11/01)
Rule 2004 Requirements (Adopted 5/11/01) except (l)
Rule 2005 New Source Review for RECLAIM (Adopted 4/20/01) except (i)
Rule 2006 Permits (Adopted 5/11/01)
Rule 2007 Trading Requirements (Adopted 5/11/01)
Rule 2008 Mobile Source Credits (Adopted 10/15/93)
Rule 2010 Administrative Remedies and Sanctions (Adopted 5/11/01)
Rule 2011 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Sulfur (SO_X) Emissions (Adopted 5/11/01)
Appendix A Volume IV—(Protocol for oxides of sulfur) (Adopted 3/10/95)
Rule 2012 Requirements for Monitoring, Reporting, and Recordkeeping for Oxides of Nitrogen (NO_X) Emissions (Adopted 5/11/01)
Appendix A Volume V—(Protocol for oxides of nitrogen) (Adopted 3/10/95)
Rule 2015 Backstop Provisions (Adopted 5/11/11) except (b)(1)(G) and (b)(3)(B)
Rule 2020 RECLAIM Reserve (Adopted 5/11/01)
Rule 2100 Registration of Portable Equipment (Adopted 7/11/97)
Rule 2506 Area Source Credits for NO_X and SO_X (Adopted 12/10/99)
XXX Title V Permits
Rule 3000 General (Adopted 11/14/97)
Rule 3001 Applicability (Adopted 11/14/97)
Rule 3002 Requirements (Adopted 11/14/97)
Rule 3003 Applications (Adopted 3/16/01)
Rule 3004 Permit Types and Content (Adopted 12/12/97)
Rule 3005 Permit Revisions (Adopted 3/16/01)
Rule 3006 Public Participation (Adopted 11/14/97)
Rule 3007 Effect of Permit (Adopted 10/8/93)
Rule 3008 Potential To Emit Limitations (3/16/01)
XXXI Acid Rain Permit Program (Adopted 2/10/95)
(8) The following requirements are contained in *Ventura County Air Pollution Control District Requirements Applicable to OCS Sources*:
Rule 2 Definitions (Adopted 11/10/98)
Rule 5 Effective Date (Adopted 5/23/72)
Rule 6 Severability (Adopted 11/21/78)
Rule 7 Zone Boundaries (Adopted 6/14/77)
Rule 10 Permits Required (Adopted 5/14/02)
Rule 11 Definition for Regulation II (Adopted 6/13/95)
Rule 12 Application for Permits (Adopted 6/13/95)
Rule 13 Action on Applications for an Authority to Construct (Adopted 6/13/95)
Rule 14 Action on Applications for a Permit to Operate (Adopted 6/13/95)
Rule 15.1 Sampling and Testing Facilities (Adopted 10/12/93)
Rule 16 BACT Certification (Adopted 6/13/95)
Rule 19 Posting of Permits (Adopted 5/23/72)
Rule 20 Transfer of Permit (Adopted 5/23/72)
Rule 23 Exemptions from Permits (Adopted 7/9/96)
Rule 24 Source Recordkeeping, Reporting, and Emission Statements (Adopted 9/15/92)
Rule 26 New Source Review (Adopted 10/22/91)
Rule 26.1 New Source Review—Definitions (Adopted 5/14/02)
Rule 26.2 New Source Review—Requirements (Adopted 5/14/02)
Rule 26.3 New Source Review—Exemptions (Adopted 5/14/02)
Rule 26.6 New Source Review—Calculations (Adopted 5/14/02)
Rule 26.8 New Source Review—Permit To Operate (Adopted 10/22/91)
Rule 26.10 New Source Review—PSD (Adopted 1/13/98)
Rule 26.11 New Source Review—ERC Evaluation At Time of Use (Adopted 5/14/02)
Rule 28 Revocation of Permits (Adopted 7/18/72)
Rule 29 Conditions on Permits (Adopted 10/22/91)
Rule 30 Permit Renewal (Adopted 5/30/89)
Rule 32 Breakdown Conditions: Emergency Variances, A., B.1., and D. only. (Adopted 2/20/79)
Rule 33 Part 70 Permits—General (Adopted 10/12/93)
Rule 33.1 Part 70 Permits—Definitions (Adopted 4/10/01)
Rule 33.2 Part 70 Permits—Application Contents (Adopted 4/10/01)
Rule 33.3 Part 70 Permits—Permit Content (Adopted 4/10/01)
Rule 33.4 Part 70 Permits—Operational Flexibility (Adopted 4/10/01)
Rule 33.5 Part 70 Permits—Time frames for Applications, Review and Issuance (Adopted 10/12/93)
Rule 33.6 Part 70 Permits—Permit Term and Permit Reissuance (Adopted 10/12/93)
Rule 33.7 Part 70 Permits—Notification (Adopted 4/10/01)
Rule 33.8 Part 70 Permits—Reopening of Permits (Adopted 10/12/93)
Rule 33.9 Part 70 Permits—Compliance Provisions (Adopted 4/10/01)
Rule 33.10 Part 70 Permits—General Part 70 Permits (Adopted 10/12/93)
Rule 34 Acid Deposition Control (Adopted 3/14/95)
Rule 35 Elective Emission Limits (Adopted 11/12/96)
Rule 36 New Source Review—Hazardous Air Pollutants (Adopted 10/6/98)
Rule 42 Permit Fees (Adopted 5/14/02)
Rule 44 Exemption Evaluation Fee (Adopted 9/10/96)
Rule 45 Plan Fees (Adopted 6/19/90)
Rule 47 Source Test, Emission Monitor, and Call-Back Fees (Adopted 6/22/99)

Rule 45.2 Asbestos Removal Fees (Adopted 8/4/92)
Rule 50 Opacity (Adopted 2/20/79)
Rule 52 Particulate Matter-Concentration (Adopted 5/23/72)
Rule 53 Particulate Matter-Process Weight (Adopted 7/18/72)
Rule 54 Sulfur Compounds (Adopted 6/14/94)
Rule 56 Open Fires (Adopted 3/29/94)
Rule 57 Combustion Contaminants-Specific (Adopted 6/14/77)
Rule 60 New Non-Mobile Equipment-Sulfur Dioxide, Nitrogen Oxides, and Particulate Matter (Adopted 7/8/72)
Rule 62.7 Asbestos—Demolition and Renovation (Adopted 6/16/92)
Rule 63 Separation and Combination of Emissions (Adopted 11/21/78)
Rule 64 Sulfur Content of Fuels (Adopted 4/13/99)
Rule 67 Vacuum Producing Devices (Adopted 7/5/83)
Rule 68 Carbon Monoxide (Adopted 6/14/77)
Rule 71 Crude Oil and Reactive Organic Compound Liquids (Adopted 12/13/94)
Rule 71.1 Crude Oil Production and Separation (Adopted 6/16/92)
Rule 71.2 Storage of Reactive Organic Compound Liquids (Adopted 9/26/89)
Rule 71.3 Transfer of Reactive Organic Compound Liquids (Adopted 6/16/92)
Rule 71.4 Petroleum Sumps, Pits, Ponds, and Well Cellars (Adopted 6/8/93)
Rule 71.5 Glycol Dehydrators (Adopted 12/13/94)
Rule 72 New Source Performance Standards (NSPS) (Adopted 4/10/01)
Rule 73 National Emission Standards for Hazardous Air Pollutants (NESHAPS (Adopted 04/10/01)
Rule 74 Specific Source Standards (Adopted 7/6/76)
Rule 74.1 Abrasive Blasting (Adopted 11/12/91)
Rule 74.2 Architectural Coatings (Adopted 11/13/01)
Rule 74.6 Surface Cleaning and Degreasing (Adopted 1/08/02)
Rule 74.6.1 Cold Cleaning Operations (Adopted 7/9/96)
Rule 74.6.2 Batch Loaded Vapor Degreasing Operations (Adopted 7/9/96)
Rule 74.7 Fugitive Emissions of Reactive Organic Compounds at Petroleum Refineries and Chemical Plants (Adopted 10/10/95)
Rule 74.8 Refinery Vacuum Producing Systems, Waste-water Separators and Process Turnarounds (Adopted 7/5/83)
Rule 74.9 Stationary Internal Combustion Engines (Adopted 11/14/00)
Rule 74.10 Components at Crude Oil Production Facilities and Natural Gas Production and Processing Facilities (Adopted 3/10/95)
Rule 74.11 Natural Gas-Fired Residential Water Heaters—Control of NO_X (Adopted 4/9/85)
Rule 74.11.1 Large Water Heaters and Small Boilers (Adopted 9/14/99)
Rule 74.12 Surface Coating of Metal Parts and Products (Adopted 9/10/96)
Rule 74.15 Boilers, Steam Generators and Process Heaters (Adopted 11/8/94)
Rule 74.15.1 Boilers, Steam Generators and Process Heaters (Adopted 6/13/00)
Rule 74.16 Oil Field Drilling Operations (Adopted 1/8/91)
Rule 74.20 Adhesives and Sealants (Adopted 1/14/97)
Rule 74.23 Stationary Gas Turbines (Adopted 1/08/02)
Rule 74.24 Marine Coating Operations (Adopted 9/10/96)
Rule 74.24.1 Pleasure Craft Coating and Commercial Boatyard Operations (Adopted 1/08/02)
Rule 74.26 Crude Oil Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.27 Gasoline and ROC Liquid Storage Tank Degassing Operations (Adopted 11/8/94)
Rule 74.28 Asphalt Roofing Operations (Adopted 5/10/94)
Rule 74.30 Wood Products Coatings (Adopted 9/10/96)
Rule 75 Circumvention (Adopted 11/27/78)
Rule 100 Analytical Methods (Adopted 7/18/72)
Rule 101 Sampling and Testing Facilities (Adopted 5/23/72)
Rule 102 Source Tests (Adopted 11/21/78)
Rule 103 Continuous Monitoring Systems (Adopted 2/9/99)
Rule 154 Stage 1 Episode Actions (Adopted 9/17/91)
Rule 155 Stage 2 Episode Actions (Adopted 9/17/91)
Rule 156 Stage 3 Episode Actions (Adopted 9/17/91)
Rule 158 Source Abatement Plans (Adopted 9/17/91)
Rule 159 Traffic Abatement Procedures (Adopted 9/17/91)
Rule 220 General Conformity (Adopted 5/9/95)
Rule 230 Notice to Comply (Adopted 11/9/99)

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[FR Doc. 03–618 Filed 1–10–03; 8:45 am]
BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–2002–0346; FRL–7285–5]

Propanoic Acid, and its Calcium and Sodium Salts; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes to establish an exemption from the requirement of a tolerance for residues of propanoic acid, and its calcium and sodium salts when used as either an inert or active ingredient in pesticide formulations that are applied to growing crops or raw agricultural commodites (RAC) before or after harvest, and for pesticide formulations that are applied to animals, under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA). This document also proposes to reorganize the existing tolerance exemptions for propanoic acid and its salts.

DATES: Comments, identified by docket ID number OPP–2002–0346, must be received on or before March 14, 2003.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Treva Alston, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave, NW., Washington, DC 20460–0001; telephone number: (703) 308–8373 and e-mail address: alston.treva@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111)
- Animal production (NAICS code 112)
- Food manufacturing (NAICS code 311)
- Pesticide manufacturing (NAICS code 32532)

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of This Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2002–0346. The official public docket consists of the documents specifically referenced in this action, any public comments received, and

other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at http://www.epa.gov/fedrgstr/. A frequently updated electronic version of 40 CFR part 180 is available at http://www.access.gpo.gov/nara/cfr/cfrhtml_00/Title;_40/40cfr180_00.html, a beta site currently under development. To access the OPPTS Harmonized Guidelines referenced in this document, go directly to the guidelines at http://www.epa.gov/opptsfrs/home/guidelin.htm.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket ID number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

C. How and To Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit I.D. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at http://www.epa.gov/edocket, and follow the online instructions for submitting comments. Once in the system, select''search,'' and then key in docket ID number OPP–2002–0346. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to opp-docket@epa.gov, Attention: Docket ID Number OPP–2002–0346. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit I.C.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency (7502C), 1200 Pennsylvania Ave., NW., Washington, DC, 20460–0001, Attention: Docket ID Number OPP–2002–0346.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm.

119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA., Attention: Docket ID Number OPP–2002–0346. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.B.1.

D. How Should I Submit CBI To the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the proposed rule or collection activity.

7. Make sure to submit your comments by the deadline in this document.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Background and Statutory Findings

In the **Federal Register** of February 12, 1997 (62 FR 6228) (FRL–5583–9), EPA issued a notice under section 408 of the FFDCA, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP 6F4770) by Nayfa Industries, Inc., c/o 1625 K St., N.W., Suite 501, Washington, D.C. 20006. The petition requested that 40 CFR 180 be amended by establishing an exemption from the requirement of a tolerance for residues of the fungicide propionic acid, also known as propanoic acid (CAS Reg. No. 79–09–4) in or on the raw agricultural commodities sugarbeets, potatoes, and sweet potatoes. This notice included a summary of the petition prepared by Nayfa Industries, Inc., the petitioner. There were no comments received in response to the notice of filing. The Agency has not yet issued a final rule for this petition, and has, in fact, determined to issue a proposed rule.

The Agency is now issuing this rule as a proposal for two reasons: First, the calcium and sodium salt forms of propanoic acid are being added to the existing exemptions from the requirement of a tolerance of propanoic acid (40 CFR 180.1023). Second, based on a review and evaluation of the available data, the Agency believes that a broader use than what was requested by the petitioner is appropriate. The Agency is proposing to remove the existing tolerance exemptions for propionic acid and sodium propionate in 40 CFR 180.1001(c). These exemptions from the requirement of a tolerance will be covered by the proposed revisions to 40 CFR 180.1023. No uses would be lost as a result of these actions. Since the 1997 publication of the Notice of Filing, the Agency has completed the Tolerance Reassessment process for propanoic acid. Based on the results of that reassessment, EPA on its own initiative, under section 408(e) of the FFDCA, 21 U.S.C. 346a, is proposing to establish an unlimited exemption from the requirement of a tolerance for residues of propanoic acid (CAS Reg. No. 79–09–4); propanoic acid, calcium salt (CAS Reg. No. 4075–81–4); and propanoic acid, sodium salt (CAS Reg. No. 187–40–6), when used as either an active or inert ingredient in pesticide formulations that are applied to growing crops or raw agricultural commodities and in pesticide formulations that are applied to animals.

The data used by the Agency to make the safety determination for propanoic acid included data that was generated using the sodium and calcium salts of propanoic acid. Often, when conducting animal tests using an acid, such as propanoic acid, as the test substance, the acid must be neutralized (converted to a salt - in this case the calcium and sodium salt) to conduct the tests. Therefore, the Agency is proposing that these two salts of propanoic acid also be included in the tolerance exemption expression.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemptionfrom the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure.

Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for the establishment of an exemption from the requirement of a tolerance for residues of propanoic acid and its calcium and sodium salts. EPA's assessment of exposures and risks associated with establishing the exemption from the requirement of a tolerance follows.

III. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the

toxic effects caused by propanoic acid and its calcium and sodium salts are discussed in this unit.

Propanoic acid is a three carbon acid with a molecular formula of CH_3CH_2COOH. It is considered to be a medium strong acid. It occurs naturally in animal and dairy products such as butter and cheese. Propanoic acid and the salts of propanoic acid are direct food additives. (discussed in unit III.7.) The toxicological database for propanoic acid was determined to be adequate for reregistration eligibility at the time that the Reregistration Eligibility Document (RED) was completed in September 1991. A comprehensive search of the open literature from 1991 forward and a search for in-house toxicological data failed to reveal any new information on propanoic acid which would change the toxicological findings in the RED. Therefore, the toxicological findings/ data from the Propionic Acid RED (which also addresses the calcium and sodium salts) are applicable to this current evaluation.

1. *Acute toxicity.* Technical propanoic acid is of moderate to low acute toxcity via the oral, dermal, and inhalation routes of exposure (toxicity category of III), and is not a skin sensitizer. However, propanoic acid is acutely toxic in eye and dermal irritation tests (toxicity category I).

2. *Subchronic toxicity.* No subchronic toxicity data are available on propanoic acid itself; however, data on calcium and sodium propionate are used to assess subchronic toxicity. Rats fed calcium or sodium propionate at one percent of the diet (equivalent to 750 milligrams/kilogram/ day (mg/kg/day) of propanoic acid) for four weeks followed by 3% (equivalent to 1,200 mg/kg/day of propanoic acid) for three weeks showed no changes in weight gain compared to the the controls. Rats fed 5% propanoic acid in the diet (approximately 5,000 mg/kg body weight) for 110 days developed lesions of the forestomach.

Propanoic acid was given in the feed to dogs at 220, 735, or 2,066 mg/kg/day for 90 days. The high dose dogs showed reduced food consumption, increased incidence of epithelial hyperplasia in the esophagus, and increased nitrite in the urine. These effects were no longer present in dogs held for a six week recovery period. In a limited 90–day dog study with calcium propionate (2,523 mg/kg/day) the dogs showed vomiting and diarrhea.

3. *Chronic toxicity.* Twenty male rats per group were fed four percent propanoic acid in the diet for 2 years. The highest dose animals had hyperplasia and hyperplastic ulcers in the forestomach. Rats fed bread containing sodium propionate (4,000 mg/kg/day) for a year showed no adverse effects, nor did rats fed a similar diet for 32 weeks, other than an initial depression of growth.

4 *Developmental toxicity.* No maternal or fetal effects were seen upon feeding calcium propionate to pregnant animals at rates up to 300 mg/kg/day for hamsters and rabbits.

5. *Mutagenicity*

Propanoic acid gave negative results in mutagencity assays in five strains of *S. Typhimurium*, and one strain of *S. Cerevisiae,* with and without activation.

Additional data on calcium and sodium propionate indicated that both tested negative for mutagenicity in *S. Typhimurium,* and *S. Cerevisiae.*

6. *Metabolism* Propanoic acid is produced in large quantities in ruminants (dairy cows), thus accounting for its presence in butter and dairy products. In humans, propanoic acid is one of the metabolic products from the breakdown of several amino acids. Propanoic acid is formed as the body oxidizes longer chain odd-numbered fatty acids or the side chain of cholesterol. It is a normal intermediary metabolite in the body that is utilized by most organs and tissues, and can be metabolized to glucose, carbohydrates, amino acids, and lipids.

If directly ingested, propanoic acid is rapidly absorbed from the mammalian gastrointestinal tract, and thus enters a known metabolic pathway.

7. *FDA uses.* The Food and Drug Administration (FDA) has approved various uses of propanoic acid, and its calcium and sodium salts. Under 21 CFR 178.1010, propanoic acid can be used in food contact surface sanitizing solutions when the ready-for-use end-use concentration does not exceed 297 ppm. The calcium salt of propanoic acid is affirmed Generally Recognized As Safe (GRAS) under 21 CFR 184.1221. It is used as a mold inibitor in bread. The sodium salt of propanoic acid is affirmed GRAS under 21 CFR 184.1784. It is used as a mold inhibitor in cakes and unleavened goods and as a chemical preservative in animal drugs and feeds. Propanoic acid is affirmed GRAS under 21 CFR 184.1081. It is an antimicrobial agent and a flavoring agent.

8. *Findings of the United Nations Food and Agriculture Organization/ World Health Organization (FAO/WHO) Expert Committee on Food Additives.* Propanoic acid has been examined at several meetings of the FAO/WHO Joint Expert Committee on Food Additives (JECFA). The Seventeenth Report contained the following information: ''In human plasma propionic acid represents 0% to 4% of the total fatty acid and is a by-product of normal intermediate metabolism. Absorbed propionate is removed by the liver, kidneys, heart, muscle and adipose tissue. The liver can deal with 4.5 g free acid or 5.8 g sodium propionate per hour.''

In 1973, the Committee determined that ''propionate is a normal intermediary metabolite, and a normal constituent of foods.'' Based on an understanding of this metabolic information, the Committee also determined that it was not necessary to specify an estimate of acceptable daily intake (ADI) in man. It was specified as ''unlimited.'' This finding was reviewed in 1997: The 1973 ADI was maintained.

9. *Conclusions on the Toxicity of Propanoic Acid and its Calcium and Sodium Salts.* Propanoic acid demonstrates an acute toxicity profile that is consistent with that of an acid: it is highly acutely toxic for eye and dermal irritation, i.e., it is corrosive to the eyes and skin. These effects are most appropriately addressed through the use of protective equipment and labeling, not through establishment of tolerance exemptions.

The JECFA monograph deemed propanoic to be of such low concern that the acceptable daily intake is ''not specified.'' A consideration in this decision was the understanding that ''propionate is a normal intermediary metabolite, and a normal constituent of foods.'' Propanoic acid and its calcium and sodium salts are FDA affirmed GRAS direct food additives.

When considering the oral exposure pathway, the most relevant in establishing a tolerance exemption, propanoic acid and its calcium and sodium salts have low toxic potential. There are no concerns for mutagencity, carcinogenicity, or developmental or reproductive concerns. Propanoic acid is a normal component of metabolism in the human body. The human body has a known pathway to metabolize propanoic acid. No additional data are necessary to assess the toxicity of these chemicals.

IV. Aggregate Assessment

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens. lawns, or buildings (residential and other indoor uses).

For propanoic acid and its calcium and sodium salts a qualitative assessment for all pathways of human exposure (food, drinking water, and residential) is appropriate given their low toxic potential for the oral route of exposure, that humans of all ages are highly exposed to propanoic acid from natural sources, and the human body has a known pathway for metabolizing propanoic acid.

V.Cumulative Effects

Section 408 (b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify or revoke a tolerance or tolerance exemption, the Agency considers ''available information'' concerning the cumulative effects of a particular chemical's residues and other substances that have a common mechanism of toxicity.'' Propanoic acid and its calcium and sodium salts are lower toxicity chemicals. EPA does not have, at this time, available data to determine whether propanoic acid and its calcium and sodium salts have a common mechanism of toxicity with other substances or how to include these pesticide chemicals in a cumulative risk assessment.

VI. Determination of Safety for U.S. Population, Infants and Children

Based on the available data, the lower toxicity of propanoic acid and its calcium and sodium salts, and considering the FDA affirmed GRAS uses and the JEFCA finding of the unlimited ADI, EPA concludes that propanoic acid and its calcium and sodium salts do not pose a dietary risk under reasonably foreseeable circumstances. Accordingly, EPA finds that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to propanoic acid and its calcium and sodium salts. For propanoic acid and its calcium and sodium salts, due to the expected low oral toxicity, a safety factor analysis has not been used to assess the risk. For the same reasons and especially considering the available developmental toxicity information, the additional tenfold safety factor for the protection of infants and children is unnecessary.

VII. Other Considerations

1. *Endocrine disruptors.* FQPA requires EPA to develop a screening program to determine whether certain substances, including all pesticide chemicals (both inert and active ingredients), may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect. EPA has been working with interested stakeholders to develop a screening and testing program as well as a priority setting scheme. As the Agency proceeds with implementation of this program, further testing of products containing propanoic acid and its calcium and sodium salts for endocrine effects may be required.

2. *Analytical enforcement methodology* An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

3. *Existing exemptions* Several tolerance exemptions for the residues of propionic acid, have been established in 40 CFR 180.1023. Under 40 CFR 180.1023(a) propionic acid or a mixture of methylene bispropionate and oxy(bismethylene) bisproprionate is exempted from the requirement of a tolerance when used as a fungicide on 22 commodities. In addition exemptions from the requirement of tolerances from residues of propionic acid (see 40 CFR 180.1023(b)) have been established in or on meat and meat byproducts of cattle, sheep, hogs, goats, horses, and poultry, milk, and eggs when applied as a bactericide/fungicide to livestock drinking water, poultry litter, and storage areas for silage and grain. The two above exemptions are only being modified for the nomenclature change from propionic to propanoic acid.

The current exemption under 40 CFR 180.1023(c) will be replaced by a new tolerance exemption which covers the existing exemptions under (c), but is broader and will also include the calcium and sodium salts of propanoic acid.

Exemptions from the requirement of a tolerance have been established in 40 CFR 180.1001(c) for sodium propionate with a use as a preservative and for propionic acid with a use as a catalyst in the pesticide formulation. These exemptions are now duplicative and will be removed.

D. International Residue Limits

The Agency is not aware of any country requiring a tolerance for propanoic acid and its calcium and sodium salts nor have any CODEX Maximum Residue Levels (MRLS) been established for any food crops at this time.

VIII. Conclusion

Based on the information in the record, summarized in this preamble, EPA concludes that there is a reasonable certainty of no harm from aggregate exposure to residues of propanoic acid, calcium propionate, and sodium propionate. Accordingly, EPA finds that exempting propanoic acid; propanoic acid, calcium salt; and propanoic acid, sodium salt from the requirement of a tolerance will be safe. With the establishment of this tolerance exemption in 40 CFR180.1023(c), the existing tolerance exemptions for inert ingredients in 40 CFR 180.1001(c) are duplicative and can be removed.

IX. Regulatory Assessment Requirements

This proposed rule establishes a consolidated and expanded exemption from the requirement for a tolerance under section 408(d) of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this proposed rule has been exempted from review under Executive Order 12866 due to its lack of significance, this proposed rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This proposed rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) 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 impact on a substantial

number of small entities. Small entities include small businesses, small organizations, and small governmental organizations. After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. Establishing an exemption from the requirement of a pesticide tolerance (or, expanding and consolidating a tolerance exemption, as is proposed today), is in effect, the removal of a regulatory restriction on pesticide residues in food and thus such an action will not have any negative economic impact on any entities, including small entities. In addition, the Agency has determined that this action will not have a substantial direct effect on 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, entitled *Federalism*(64 FR 43255, August 10, 1999). Executive Order 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 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.'' This proposed rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this proposed rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This proposed rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this proposed rule.

X. 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 this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 2, 2003.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, it is proposed that 40 CFR chapter I be amended as follows:

PART 180— [AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

PART 180.1001 [Amended]

2. Section 180.1001 is amended in paragraph (c) by removing from the table, the entries for ''propionic acid'' and ''sodium propionate.''

3. Section 180.1023 is amended in paragraph (a) and (b) by revising the term ''propionic acid'' to read ''propanoic acid;'' and by revising paragraph (c) to read as follows:

§ 180.1023 Propanoic acid and its sodium and calcium salts; exemptions from the requirement of a tolerance.

* * * * *

(c) Residues of propanoic acid (CAS Reg. No. 79–09–4), propanoic acid, calcium salt (CAS. Reg. No. 4075–81–4), and propanoic acid, sodium salt (CAS Reg. No. 137–40–6) are exempted from the requirement of a tolerance when used as either an active or inert ingredient in accordance with good agricultural practice in pesticide formulations applied to growing crops, to raw agricultural commodities after harvest, and to animals.

[FR Doc. 03–615 Filed 1–10–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7436–6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Wildcat Landfill Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is issuing a notice of intent to delete the Wildcat Landfill Superfund Site (Site), located in Kent County, near Dover, Delaware, from the National Priorities List (NPL) and requests public comments on this notice of intent. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (CERCLA), is found at Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA, with the concurrence of the State of Delaware, through the Delaware Department of Natural Resources and Environmental Control, has determined that responsible parties or other persons have implemented all appropriate response actions required under CERCLA and, therefore, no further response action pursuant to CERCLA is appropriate. However, this deletion does not preclude future actions under CERCLA.

In the ''Rules and Regulations'' section of today's **Federal Register**, EPA is publishing a direct final notice of deletion of the Wildcat Landfill Superfund Site without prior notice of

intent to delete because EPA views this as a noncontroversial revision and anticipates no adverse comment. EPA has explained its reasons for this deletion in the direct final notice of deletion. If EPA receives no adverse comment(s) on this notice of intent to delete or on the direct final notice of deletion, EPA will not take further action on this notice of intent to delete. If EPA receives adverse comment(s), EPA will withdraw the direct final notice of deletion and it will not take effect. EPA will, as appropriate, address all public comments in a subsequent final deletion notice based on this notice of intent to delete. EPA will not institute a second comment period on this notice of intent to delete. Any parties interested in commenting must do so at this time. For additional information, *see* the direct final notice of deletion which is located in the ''Rules and Regulations'' section of this **Federal Register**.

DATES: Comments concerning this Site must be received by February 12, 2003.

ADDRESSES: Written comments should be addressed to: Mr. Hilary M. Thornton, Remedial Project Manager, U.S. EPA Region III (3HS23), 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–3323.

FOR FURTHER INFORMATION CONTACT: Mr. Hilary M. Thornton, Remedial Project Manager, U.S. EPA Region III (3HS23), 1650 Arch Street, Philadelphia, PA 19103–2029, (215) 814–3323 or 1–800–553–2509.

SUPPLEMENTARY INFORMATION: For additional information, see the direct final notice of deletion which is located in the ''Rules and Regulations'' section of this **Federal Register**.

Information Repositories: Repositories have been established to provide detailed information concerning this decision at the following addresses: U.S. EPA Region III, Regional Center for Environmental Information (RCEI), 1650 Arch Street (2nd Floor), Philadelphia, PA 19103–2029, (215) 814–5254, Monday through Friday, 8 a.m. to 5 p.m.; and in Delaware at the Delaware Department of Natural Resources and Environmental Control, Site Investigation and Restoration Branch, 391 Lukens Drive, New Castle, DE 19720, (302) 395–2600, Monday through Friday, 8 a.m. to 4 p.m.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: December 20, 2002.

Donald S. Welsh,

Regional Administrator, U.S. EPA Region III.

[FR Doc. 03–514 Filed 1–10–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7550]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *mike.grimm@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator, Federal Insurance and Mitigation Administration, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
MISSISSIPPI Rankin County (Unincorporated Areas)				
Eutacutachee Creek	Approximately 250 feet from the confluence of Pelahatchie Creek.	None	•333	Rankin County (Unincorporated Areas)
	Approximately 760 feet upstream of International Paper Road.	None	•387	
Eutacutachee Creek Tributary 1.	At the confluence with Eutacutachee Creek	None	•360	Rankin County (Unincorporated Areas)
	Approximately 7,070 feet upstream of the confluence with Eutacutachee Creek.	None	•383	
Eutacutachee Creek Tributary 2.	At the confluence with Eutacutachee Creek	None	•372	Rankin County (Unincorporated Areas)
	Approximately 4,763 feet upstream of the confluence with Eutacutachee Creek.	None	•380	
Eutacutachee Creek Tributary 3.	At the confluence with Eutacutachee Creek	None	•360	Rankin County (Unincorporated Areas)
	Approximately 0.7 mile upstream of Rankin Road	None	•387	
Eutacutachee Creek Tributary 4.	At the confluence with Eutacutachee Creek	None	•355	Rankin County (Unincorporated Areas)
	Approximately 100 feet upstream of Gulde-Shiloh Road.	None	•390	
Prairie Branch Tributary 1.	At the confluence with Prairie Branch Canal	•280	•279	Town of Flowood
	Approximately 800 feet upstream of U.S. Highway 475.	None	•284	
Pelahatchie Bay Unnamed Tributary.	At Pearl River Valley Water Supply District corporate limits.	None	•307	Rankin County (Unincorporated Areas)
	Approximately 510 feet upstream of Pearl River Valley Water Supply District corporate limits.	None	•307	
Pearl River Tributary 2 ...	At upstream side of Old U.S. Highway 49	•271	•270	City of Richland
	Approximately 0.4 mile upstream of Old U.S. Highway 49.	•271	•270	
Woodrun Creek	Approximately 175 feet downstream of Interstate Route 20.	None	•337	City of Brandon, City of Pearl
	Approximately 125 feet upstream of Mississippi Salvage Road.	None	•360	
Terrapin Skin Creek	Approximately 0.5 mile downstream of North Deer Ridge.	•372	•371	Rankin County (Unincorporated Areas), City of Brandon
	Approximately 0.7 mile upstream of North Deer Ridge.	None	•395	
Hog Creek	Approximately 650 feet upstream of State Route 475.	•283	•282	Town of Flowood
	Approximately 200 feet upstream of State Highway 468.	•284	•285	
Richland Creek	Approximately 1.4 miles upstream of State Highway 471.	•343	•344	Rankin County (Unincorporated Areas), City of Brandon
	Approximately 1.1 miles upstream of U.S. Highway 80.	None	•373	
Pelahatchie Creek Tributary 1.	Just upstream of State Route 43	•352	•351	Town of Pelahatchie
	Approximately 375 feet upstream of Ragan Road	None	•370	
Pearl River Tributary 3 ...	Approximately 3,000 feet downstream of U.S. Highway 25.	•283	•282	Town of Flowood
	Approximately 150 feet upstream of Flowood Drive	•283	•282	

Rankin County (Unincorporated Areas)

Maps available for inspection at the Rankin County Building, 211 East Government, Brandon, Mississippi.

Send comments to Mr. Ken Martin, President of the Rankin County Board of Supervisors, 211 East Government, Brandon, Mississippi 39042.

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
City of Brandon				
Maps available for inspection at the Brandon City Hall, 201 North College Street, Brandon, Mississippi.				
Send comments to The Honorable Truitt M. Grubbs, Mayor of the City of Brandon, P.O. Box 1539, Brandon, Mississippi 39043.				
Town of Flowood				
Maps available for inspection at the Flowood Town Hall, 2101 Airport Road, Flowood, Mississippi.				
Send comments to The Honorable Gary Rhoads, Mayor of the Town of Flowood, P.O. Box 320069, Flowood, Mississippi 39232.				
City of Pearl				
Maps available for inspection at the Pearl City Hall, 2420 Old Brandon Road, Pearl, Mississippi.				
Send comments to The Honorable Jimmy Foster, Mayor of the City of Pearl, P.O. Box 5948, Pearl, Mississippi 39288–5948.				
Town of Pelahatchie				
Maps available for inspection at the Pelahatchie City Hall, 705 Second Street, Pelahatchie, Mississippi.				
Send comments to The Honorable Knox Ross, Jr., Mayor of the Town of Pelahatchie, P.O. Box 229, Pelahatchie, Mississippi 39145.				
City of Richland				
Maps available for inspection at the Richland City Hall, 380 Scarborough Street, Richland, Mississippi.				
Send comments to The Honorable Shirley Hall, Mayor of the City of Richland, P.O. Box 180609, Richland, Mississippi 39218.				
NORTH CAROLINA Scotland County (Unincorporated Areas)				
Beaverdam Creek	At the confluence with Juniper Creek	None	•246	Scotland County (Unincorporated Areas)
	Approximately 1.5 miles upstream of Nashville Church Road.	None	•263	
Big Branch	At the confluence with Bridge Creek	None	•155	City of Laurinburg, Scotland County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Interstate 74	None	•214	
Big Muddy Creek	At the confluence with the Lumber River	None	•266	Scotland County (Unincorporated Areas)
	At the County boundary	None	•311	
Bridge Creek	At the confluence with Leith Creek	None	•146	City of Laurinburg, Scotland County (Unincorporated Areas)
	Approximately 1,640 feet upstream of Andrew Jackson Highway/Interstate 74—Business.	None	•229	
Crawford Branch	At the confluence with Gum Swamp Creek	None	•242	Scotland County (Unincorporated Areas)
	Approximately 1.3 miles upstream of Crawford Lake Road.	None	•271	
Crooked Creek	Approximately 700 feet downstream of the State boundary.	None	•225	Scotland County (Unincorporated Areas)
	Approximately 100 feet downstream of County Line Road.	None	•243	
Gum Swamp Creek	At Pea Bridge Road	None	•149	City of Laurinburg, Scotland County (Unincorporated Areas)
	Approximately 0.5 mile upstream of Sneads Grove Road.	None	•329	
Gum Swamp Creek Tributary.	At the confluence with Richmond Mill Lake/Gum Swamp Creek.	None	•210	Scotland County (Unincorporated Areas)
	Approximately 0.7 mile upstream of Gillis Road	None	•223	
Joes Creek	At the confluence with Gum Swamp Creek	None	•178	Scotland County (Unincorporated Areas)
	Approximately 1,000 feet downstream of CSX Transportation.	None	•258	
Joes Creek Tributary	At the confluence with Joes Creek	None	•219	Scotland County (Unincorporated Areas)
	Approximately 100 feet downstream of Scotland County Line Road.	None	•261	
Jordan Creek	At the confluence with Juniper Creek	None	•192	Scotland County (Unincorporated Areas)
	Approximately 950 feet downstream of Timmons Road.	None	•300	
Juniper Creek	At the confluence with Shoe Heel Creek	None	•179	Scotland County (Unincorporated Areas)
	Approximately 1.8 miles upstream of Nashville Church Road.	None	•259	
Juniper Creek Tributary 1	At the confluence with Juniper Creek	None	•180	Scotland County (Unincorporated Areas)
	Approximately 750 feet upstream of Lee Lane	None	•221	
Leith Creek	At the County boundary	None	•136	Town of East Laurinburg, City of Laurinburg, Scotland County (Unincorporated Areas)
	Approximately 1,500 feet upstream of Old Wire Road.	None	•248	
Leith Creek Tributary 1	At the confluence with Leith Creek	None	•137	Scotland County (Unincorporated Areas)

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) •Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
	Approximately 50 feet downstream of Pea Bridge Road.	None	•157	
Leith Creek Tributary 2 ...	At the confluence with Leith Creek	None	•175	Scotland County (Unincorporated Areas)
	Approximately 325 feet downstream of Andrew Jackson Highway/Interstate 74—Business.	None	•189	
Little Creek	At the confluence with Leith Creek	•180	•186	City of Laurinburg, Scotland County (Unincorporated Areas)
	Approximately 125 feet downstream of Aberdeen Road/Interstate 501–15.	None	•233	
Little Juniper Creek	At the confluence with Juniper Creek	None	•197	Scotland County (Unincorporated Areas)
	Approximately 280 feet upstream of Aberdeen Road/Interstates 01–15.	None	•256	
Little Juniper Creek Tributary.	At the confluence with Little Juniper Creek	None	•227	Scotland County (Unincorporated Areas)
	Approximately 0.7 mile upstream of Aberdeen Road/Interstate 501–15.	None	•264	
Little Shoe Heel Creek ...	At the confluence with Shoe Heel Creek	None	•213	Scotland County (Unincorporated Areas)
	Approximately 1.7 miles upstream of North Turnpike Road.	None	•331	
Little Shoe Heel Creek Tributary.	At the confluence with Little Shoe Heel Creek	None	•223	Scotland County (Unincorporated Areas)
	Approximately 150 feet downstream of Arch McLean Road.	None	•257	
Lower Beaverdam Creek	At the confluence with Gum Swamp Creek	None	•180	Scotland County (Unincorporated Areas)
	Approximately 1,900 feet upstream of Old Wire Road.	None	•215	
Lumber River	Approximately 3.0 miles upstream of McGirts Bridge Road.	None	•205	Scotland County (Unincorporated Areas), Town of Wagram
	At the County boundary	None	•268	
Shoe Heel Creek	Approximately 700 feet downstream of Old Maxton Road.	None	•164	Scotland County (Unincorporated Areas)
	Approximately 1.6 miles upstream of Jane Shaw Road.	None	•268	
Steer Branch	At the confluence with Leith Creek	None	•144	Scotland County (Unincorporated Areas)
	Approximately 50 feet downstream of CSX Transportation.	None	•169	
Towers Fork	At the confluence with Big Muddy Creek	None	•302	Scotland County (Unincorporated Areas)
	Approximately 1.3 miles upstream of the confluence with Big Muddy Creek.	None	•319	
Upper Beaverdam Creek	At the confluence with Richmond Mill Lake/Gum Swamp Creek.	None	•210	Scotland County (Unincorporated Areas)
	Approximately 800 feet upstream of Marston Road	None	•225	
Water Creek	At the confluence with Gum Swamp Creek	None	•153	Scotland County (Unincorporated Areas)
	Approximately 1.4 miles upstream of Fox Crossings.	None	•178	

Scotland County (Unincorporated Areas)

Maps available for inspection at the Scotland County Governmental Annexation Building, 231 East Cronly Street, Laurinburg, North Carolina.

Send comments to Mr. Scott T. Sauer, Scotland County Manager, P.O. Box 489, Laurinburg, NC 28353.

Town of East Laurinburg

Maps available for inspection at the East Laurinburg Municipal Building, 28 Fourth Street, Laurinburg, North Carolina.

Send comments to The Honorable Douglas R. Miller, Mayor of the Town of East Laurinburg, P.O. Box 1106, 11 Third Street, East Laurinburg, North Carolina 28353.

City of Laurinburg

Maps available for inspection at the Laurinburg City Hall, 305 West Church Street, Laurinburg, North Carolina.

Send comments to The Honorable Ann B. Slaughter, Mayor of the City of Laurinburg, P.O. Box 249, Laurinburg, North Carolina 28352.

Town of Wagram

Maps available for inspection at the Wagram Town Offices, 24341 Riverton Road, Wagram, North Carolina.

Send comments to The Honorable Milton W. Farmer, Mayor of the Town of Wagram, P.O. Box 118, Wagram, North Carolina 28396.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: December 31, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–610 Filed 1–10–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7548]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street SW., Washington, DC 20472, (202) 646–3461, or (email) *mike.grimm@fema.gov*.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with Section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

National Environmental Policy Act

This proposed rule is categorically excluded from the requirements of 44 CFR Part 10, Environmental Consideration. No environmental impact assessment has been prepared.

Regulatory Flexibility Act

The Administrator, Federal Insurance and Mitigation Administration, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

Regulatory Classification

This proposed rule is not a significant regulatory action under the criteria of Section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 12612, Federalism

This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This proposed rule meets the applicable standards of Section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR Part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)	
				Existing	Modified
Massachusetts	Chelmsford (Town), Middlesex County.	River Meadow Brook	Downstream corporate limit	*103	*105
			Approximately 20 feet upstream of Mill Road.	*115	*117
		Putnam Brook	At confluence with River Meadow Brook	*111	*112
			Approximately 560 feet above confluence with River Meadow Brook.	*111	*112

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)	
				Existing	Modified
Maps available for inspection at the Chelmsford Town Office, 50 Billerica Road, Chelmsford, Massachusetts. Send comments to Mr. William Dalton, Chairman of the Town of Chelmsford Board of Selectmen, 50 Billerica Road, Chelmsford, Massachusetts 01824-2777.					
Mississippi	Monticello (Town), Lawrence County.	Runnels Creek	At confluence with Pearl River	None	*192
			Just downstream of Thomas E. Jolly Drive.	None	*205
		Runnels Creek Tributary A.	At confluence with Runnels Creek	None	*201
			Approximately 1,125 feet upstream of Graham Road.	None	*204
		Runnels Creek Tributary B.	At confluence with Tributary A	None	*202
			Just downstream of State Route 27	None	*214
		Runnels Creek Tributary C.	At confluence with Tributary B	None	*206
			Just downstream of Thomas E. Jolly Drive.	None	*212
Maps available for inspection at the Monticello Town Hall, 202 Jefferson Street, Monticello, Mississippi. Send comments to The Honorable Dave Nichols, III, Mayor of the Town of Monticello, P.O. Box 822, Monticello, Mississippi 39654.					
Pennsylvania	College (Township), Centre County.	Cedar Run	Approximately 60 feet downstream of the confluence with Spring Creek.	None	*1,036
			At upstream corporate limits	None	*1,078
Maps available for inspection at the College Township Municipal Building, 1481 East College Avenue, State College, Pennsylvania. Send comments to Mr. Adam Brumbaugh, College Township Manager, 1481 East College Avenue, State College, Pennsylvania 16801.					
Pennsylvania	Harris (Township), Centre County.	Cedar Run	Approximately 2,680 feet downstream of the railroad.	None	*1,078
			Approximately 125 feet upstream of Rock Hill Road.	None	*1,114
		Mackey's Run	At the confluence with Cedar Run	None	*1,105
			Approximately 217 feet upstream of Rock Hill Road.	None	*1,108
		Spring Creek	At the corporate limits, coincident with Mary Elizabeth Street.	*1,054	*1,056
Maps available for inspection at the Harris Township Municipal Office, 224 East Main Street, Boalsburg, Pennsylvania. Send comments to Mr. Joseph Chesworth, Chairperson of the Township of Harris, P.O. Box 20, Boalsburg, Pennsylvania 16827.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: December 31, 2002.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–609 Filed 1–10–03; 8:45 am]

BILLING CODE 6718–04–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3215; MB Docket No. 02–365; RM–10451]

Radio Broadcasting Services; Laramie, WY and Timnath, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition for rule making filed on behalf of Laramie Mountain Broadcasting, L.L.C., licensee of Station KIMX, Laramie, Wyoming, requesting the reallotment of Channel 288C2 to Timnath, Colorado, as that community's first local aural transmission service, and modification of its authorization accordingly. The petitioner's modification proposal complies with the provisions of Section 1.420(i) of the Commission's Rules and therefore, we will not accept competing expressions of interest in the use of Channel 288C2 at Timnath, Colorado. Coordinates used for this proposal are 40–44–31 NL and 105–14–15 WL, representing a restricted transmitter site located 31.9 kilometers (19.8 miles) northwest of Timnath, Colorado. This proposal is located within the protected areas of the Table Mountain Radio Receiving Zone, Boulder County, Colorado, and will require compliance with Section 73.1030(b) of the Commission's Rules.

DATES: Comments must be filed on or before January 30, 2003, and reply comments on or before February 14, 2003.

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: A. Wray Fitch, III, Esq., Gammon & Grange, P.C., 8280 Greensboro Drive, 7th Floor, McLean, VA 22102–3807.

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No.

02–365, adopted December 6, 2002, and released December 9, 2002. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 Twelfth Street, SW., Room CY–A257, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, Qualtex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (202) 863–2893, facsimile 202–863–2898, or via e-mail *qualtexint@aol.com.*.

The 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.

On February 12, 2001, the authorization for Station KIMX, Channel 288C3 at Laramie, Wyoming, was amended by a one-step application to specify Channel 288C2.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Colorado, is amended by adding Timnath, Channel 288C2.

3. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by removing Channel 288C3 at Laramie.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–533 Filed 1–10–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 02–3567; MB Docket No. 02–388; RM–10624]

Television Broadcasting Services; Sterling and Fort Morgan, Colorado

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rule making requests comments on a petition for rulemaking filed by Channel 20 TV Company (''Petitioner''), licensee of Station KUPN(TV), NTSC Channel 3, and permittee of Digital Channel 23, Sterling, Colorado. Petitioner proposes to change Station KUPN(TV)'s community of license from Sterling to Fort Morgan, Colorado. The coordinates for Petitioner's proposed new location are: 39–56–18 NL and 103–52–06 WL.

Petitioner's reallotment proposal complies with the provisions of section 1.420(i) of the Commission's rules, and therefore, the Commission will not accept competing expressions of interest in the use of NTSC Channel 3 and Digital Channel 23 at Fort Morgan, Colorado, or require the Petitioner to demonstrate the availability of additional equivalent class channels for use by other parties.

DATES: Comments must be filed on or before February 14, 2003, and reply comments on or before March 3, 2003.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Petitioner's counsel, as follows: Edward W. Hummers, Jr., Esq., Holly Rachel Smith, Esq., Holland & Knight LLP; 2099 Pennsylvania Ave., NW., Suite 100; Washington, DC 20006–6801.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MB Docket No. 02–388, adopted December 20, 2002, and released December 24, 2002. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com*.

The 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

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—TELEVISION BROADCAST SERVICES

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

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

§ 73.606 [Amended]

2. Section 73.606(b), the Table of TV Allotments under Colorado, is amended by removing Channel 3 at Sterling, and by adding Fort Morgan, Channel 3.

3. Section 73.622(b), the Table of DTV Allotments under Colorado, is amended by adding Fort Morgan, Channel 23.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–664 Filed 1–10–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 010703A]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 3–day Council meeting on January 28, 29, and 30, 2003, to consider actions affecting New England fisheries in the U.S. exclusive economic zone (EEZ).

DATES: The meeting will be held on Tuesday, Wednesday, and Thursday January 28, 29, and 30, 2003. The meeting will begin at 9:00 a.m. on Tuesday and 8:30 a.m. on Wednesday and Thursday.

ADDRESSES: The meeting will be held at the Marriott Courtyard, 1000 Market Street, Portsmouth, NH 03801; telephone (603) 436–2121. Requests for special accommodations should be addressed to the New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone (978) 465–0492.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council, (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Tuesday, January 28, 2003

Following introductions, there will be a public review workshop held to discuss the results of the 36th Northeast Regional Stock Assessment Workshop (SAW). Species to be reviewed include yellowtail flounder, winter flounder, northern shrimp, and striped bass. At the conclusion of the SAW presentation, the Transboundary Management Guidance Committee will brief the Council on its December 17–18, 2002, meeting on the U.S./Canada Resource Sharing Agreement discussions. The Groundfish Committee will report following a lunch break. Items to be covered include review of the time line for development of Amendment 13 to the Northeast Multispecies Fishery Management Plan (FMP), including a discussion of analytic and peer review requirements necessary to complete the amendment; implications of considering different rebuilding periods, alternatives that should be analyzed under different rebuilding time periods, and possible elimination of alternatives from further consideration; development of a recommendation to NOAA Fisheries for implementation of a DAS leasing program to be implemented prior to the adoption of Amendment 13 and preliminary discussion of measures to implement the U.S./Canada Resource Sharing Agreement. The Council also has scheduled a scoping meeting for Amendment 2 to the Spiny Dogfish FMP on Tuesday January 28 at 7 p.m.

Wednesday, January 29, 2003

The Scallop Committee will review and seek approval of the Draft Supplemental Environmental Impact Statement (SEIS) for Amendment 10 to the Atlantic Sea Scallop FMP. Issues to be considered include: an area rotation system and access to the Georges Bank groundfish closed areas; measures to minimize habitat and bycatch impacts; changes to the framework adjustment process, as well as day-at-sea adjustments and other changes to the plan as required. Interim measures to access the Georges Bank areas and closed areas elsewhere in 2004 also will be included. Following approval of this document, the Council will schedule a series of public hearings to seek public comments on the draft Amendment 10 alternatives and the associated SEIS.

Thursday, January 30, 2003

The meeting will reconvene with reports on recent activities from the Council Chairman and Executive Director, the NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, NOAA General Counsel and representatives of the U.S. Coast Guard, NMFS Enforcement and the Atlantic States Marine Fisheries Commission. This will be followed by a brief public comment period during which any member of the public may bring forward items relevant to Council business but not otherwise listed on the agenda for this meeting. The NOAA Fisheries Regional Administrator will then conduct a formal consultation with the Council on the American Lobster FMP, providing members with an opportunity to comment on regulations, both proposed and future, developed by the Atlantic States Marine Fisheries Commission. The Whiting Committee will ask for approval of final action on Framework Adjustment 38 to the Northeast Multispecies FMP (whiting, red hake, and offshore hake). Measures include the establishment of an exempted grate raised footrope trawl fishery in the inshore Gulf of Maine, with specifications for a season, fishing area, mesh size, gear restrictions, whiting possession limits, and other incidental catch limits. The Council also will consider a new control date to determine future participation in the small mesh multispecies fishery. Before adjourning for the day, the Council is expected to approve final Northeast Skate Complex FMP submission documents, including a description of management measures, draft regulations, and a summary of impacts. The FMP includes permit and reporting requirements; prohibitions on the possession of barndoor skate, thorny skate, and smooth skate in the Gulf of Maine and a possession limit for the skate wing fishery.

Although other non-emergency issues not contained in this agenda may come before this Council for discussion, those issues may not be the subjects of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided that the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: January 7, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–635 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 68, No. 8
Monday, January 13, 2003

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

Animal and Plant Health Inspection Service

[Docket No. 02–122–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of the National Poultry Improvement Plan.

DATES: We will consider all comments that we receive on or before March 14, 2003.

ADDRESSES: You may submit comments by postal mail/commercial delivery or by e-mail. If you use postal mail/commercial delivery, please send four copies of your comment (an original and three copies) to: Docket No. 02–122–1, Regulatory Analysis and Development, PPD, APHIS, Station 3C71, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comment refers to Docket No. 02–122–1. If you use e-mail, address your comment to *regulations@aphis.usda.gov*. Your comment must be contained in the body of your message; do not send attached files. Please include your name and address in your message and ''Docket No. 02–122–1'' on the subject line.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS dockets, are available on the Internet at *http://www.aphis.usda.gov/ppd/rad/webrepor.html.*

FOR FURTHER INFORMATION CONTACT: For information regarding the National Poultry Improvement Plan, contact Mr. Andrew Rhorer, Senior Coordinator, National Poultry Improvement Plan, VS, APHIS, 1498 Klondike Road, Suite 200, Conyers, GA 30094–5104; (770) 922–3496. For copies of more detailed information on the information collection, contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 734–7477.

SUPPLEMENTARY INFORMATION:

Title: National Poultry Improvement Plan.

OMB Number: 0579–0007.

Type of Request: Extension of approval of an information collection.

Abstract: The Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture is responsible for, among other things, administering the National Poultry Improvement Plan (NPIP), the primary purpose of which is to protect the health of the U.S. poultry population. NPIP is a voluntary Federal-State cooperative program for the improvement of poultry breeding flocks and products through disease control techniques.

Administering the NPIP requires us to engage in a number of information collection activities, which are described below. We are asking the Office of Management and Budget (OMB) to approve the continued use of these information collection activities, which are critical to our ability to prevent the spread of contagious poultry diseases within the United States.

Flock Selecting and Testing Report (VS Form 9–2)

This form is used by authorized agents and State inspectors when breeding flocks are selected and tested. The form provides space for the number of birds tested and the results of the test. This form also identifies a given flock as to owner, hatchery affiliation, stock, type, purpose, classification, and most importantly, flock location. Since most of the flocks are supply flocks for the same hatchery, it is extremely important to know the location of the flock. The information on this form is of critical importance when an investigation must be conducted to determine the source of a hatchery-disseminated or egg-transmitted disease.

Report of Sales of Hatching Eggs, Chicks, and Poults (VS Form 9–3)

NPIP participants use this form to record any interstate sales of their hatching eggs, chicks, and poults. This document is used by both APHIS and the receiving State to monitor the movements of these items. This form also serves as a vital investigative aid when APHIS is attempting to track down the source of a poultry disease. These records must be maintained by producers for 3 years.

Summary of Breeding Flock Participation (VS Form 9–4)

This report form, which is completed by State animal health authorities, contains a summary of blood testing work and of flock participation by classes and breeding status. It is distributed to Official State Agencies from our offices at the end of the testing year in June and must be returned to us in July. With this information, we can publish our Tables on Hatchery and Flock Participation, which serve as an important tool in monitoring the health status of participating flocks.

Report of NPIP Hatchery Participation or Change (VS Form 9–5)

This form is completed by the Official State Agency to record an NPIP participant's decision to withdraw from the program, or to record a producer's decision to join the program. This document is also used to record a change in disease program classification. This form allows us to effectively monitor participation in the NPIP, and to maintain an up-to-date list of program participants, their addresses, and other important information concerning their poultry operations.

Investigation of Salmonella and Arizona Isolations (VS Form 9–7)

If a multi-State disease outbreak occurs, the NPIP will conduct an investigation and share the resulting information with all the States involved. VS form 9–7 is one of the tools used to

complete this investigation; it provides the investigating State agency with a uniform method of compiling and analyzing information that can subsequently be used to study trends, economic importance, and other matters. This form is arranged in sections so that the disease investigations can be completed in stages by different inspectors, depending upon the location of the flock, hatchery, and breeding flock. The inspector obtains some of the needed information by interviewing the appropriate poultry producers. When several States are involved in a pullorum-typhoid infection, the completed form will be sent to each of the States involved so that all of them will be aware of the investigation's outcome.

Sentinel Birds Banded for Identification Prior to Flock Vaccination

When a Federally licensed *Salmonella enteritidis* bacterin is used to vaccinate a flock, 350 birds must remain unvaccinated so that they can be used to conduct the necessary serological tests for *Salmonella pullorum* and *Salmonella gallinarum.* These test birds must be banded so that they can be recognized as sentinel birds. A report is submitted annually to APHIS, from the various States, with information from their participants and data required by the various disease control programs of the NPIP.

Request for Salmonella Serotyping (VS Form 10–3)

This is a National Veterinary Services Laboratory (NVSL) form that must be completed by State or APHIS personnel who are submitting samples for salmonella serotyping. If samples were sent to NVSL without this form, lab personnel would have no way of identifying any given sample as to the flock from which it came, or even the disease for which the sample is to be tested.

Printing and Mailing Computerized Printouts

These printouts are constructed by hatchery operators who ship large numbers of small chick orders all across the United States. These computerized lists contain all the information found on a VS form 9–3, but reduce the paperwork load substantially because they are computer generated. These printouts are sent every month to those States that request them. The States use these printouts to monitor the number of small chicks they are receiving.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, *e.g.*, permitting electronic submission of responses.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.4742 hours per response.

Respondents: Flock owners, breeders, hatchery operators, and State veterinary medical officers.

Estimated Number of Respondents: 9,000.

Estimated Number of Responses per Respondent: 8.8562.

Estimated Annual Number of Responses: 79,706.

Estimated Total Annual Burden on Respondents: 37,797 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Done in Washington, DC, this 7th day of January, 2003.

Peter Fernandez,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 03–574 Filed 1–10–03; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Producing Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration (EDA).

ACTION: To give all interested parties an opportunity to comment.

Petitions have been accepted for filing on the dates indicated from the firms listed below.

LIST OF PETITION ACTION BY TRADE ADJUSTMENT ASSISTANCE FOR PERIOD NOVEMBER 23, 2002–DECEMBER 19, 2002

Firm Name	Address	Date petition accepted	Product
Amak River Legacy, Inc.	P.O. Box 1020 Rochester, WA 98579	11/27/02	Salmon.
Waytec Electronics Corporation	1104 Mc Conville Road Lynchburg, VA 24506.	11/27/02	Printed circuit boards.
Nifty-Bar, Inc.	450 Whitney Road, West Penfield, NY 14526.	10/10/02	Flat rolled carbon and stainless steel.
Gilbert Mold & Die, Inc.	6424 Highway 43 South Harrison, AR 72601.	12/10/02	Plastic molds and dies.
Woodbine Alaska Fish Company	P.O. Box 757 Rio Vista, CA 94571	12/10/02	Salmon.
Dennis F. Shangin dba F/V Miranda Leigh.	P.O. Box 3104 Soldotna, AK 99669	12/11/02	Salmon.
Spiel Associates, Inc.	45–01 Northern Boulevard Long Island City, NY 11101.	12/12/02	Book binding machinery.
Quick Point, Inc.	1717 Fenpark Drive Fenton, MO 63026	12/17/02	Plastic drinkware and golf towels.
Craftique, Inc.	1257 West Center Street Mebane, NC	12/17/02	Wooden bedroom, dining room and accent furniture.
Advance Screw Products Corporation	8 Deep Rock Road Rochester, NY 14624	12/17/02	Metal shafts for photocopying apparatus.

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (19 U.S.C. 2341). Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by Trade Adjustment Assistance, Room 7315, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance.

Dated: January 2, 2003.

Anthony J. Meyer,

Coordinator, Trade Adjustment and Technical Assistance.

[FR Doc. 03–569 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 1–2003]

Foreign-Trade Zone 57–Asheville, North Carolina, Expansion of Manufacturing Authority—Subzone 57B Volvo Construction Equipment North America, Inc. (Construction Equipment)

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Volvo Construction Equipment North America, Inc. (Volvo CENA), to expand the scope of manufacturing authority under zone procedures within Subzone 57B, at the Volvo CENA plant located at sites in the Asheville, North Carolina area. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on January 7, 2003.

Subzone 57B was approved by the Board in 2000 at sites located at 2169 Hendersonville Rd. (U.S. Rt. 25), in Skyland, North Carolina and at 1856 Hendersonville Rd., in Asheville. Authority was granted for the manufacture of articulated haulers and wheel loaders (Board Order 1164, 66 FR 28890, 5/25/2001).

Volvo CENA is now proposing to expand the scope of manufacturing activity conducted under zone procedures at Subzone 57B to include additional finished products (skid-steer loaders and compaction rollers). These finished products fall into categories which enter the United States duty-free. Volvo CENA's application indicates that foreign-sourced materials under the proposed expanded scope fall into categories which are already included in the scope of authority granted pursuant to the company's original subzone application (65 FR 47377, 8/2/2000).

Expanded subzone authority would exempt Volvo CENA from Customs duty payments on foreign components when used in export production of the new products. On its domestic sales, Volvo CENA would be able to choose the lower duty rate that applies to the new finished products for foreign components, when applicable.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the following addresses:

1. Submissions via Express/Package Delivery Services: Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St., NW., Washington, DC 20005; or

2. Submissions via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave., NW., Washington, DC 20230.

The closing period for their receipt is February 12, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to February 27, 2003.

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at address Number 1 listed above, and at the U.S. Department of Commerce Export Assistance Center, 521 East Morehead St., Suite 435, Charlotte, NC 28202.

Dated: January 7, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03–633 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–827]

Certain Cased Pencils from the People's Republic of China; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results and Rescission in Part of the Antidumping Duty Administrative Review of Certain Cased Pencils from the People's Republic of China.

SUMMARY: The Department of Commerce (the Department) has preliminarily determined that sales by the respondents in this review, covering the period December 1, 2000, through November 30, 2001, have been made below normal value (NV). In addition, pursuant to their requests, we are rescinding this review with respect to Orient International Holding Shanghai Foreign Trade Co., Ltd. (SFTC) and China First Pencil Co., Ltd. (CFP). Furthermore, we are preliminarily rescinding this review with respect to Kaiyuan Group Corporation (Kaiyuan) and Laizhou City Guangming Pencil-Making Co., Ltd. (Laizhou), because these companies reported that they made no shipments of subject merchandise to the United States during the period of review (POR). If these preliminary results are adopted in the final results of this review, we will instruct the U.S. Customs Service (Customs) to assess antidumping duties on all appropriate entries. The Department invites interested parties to comment on these preliminary results.

EFFECTIVE DATE: January 13, 2003.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Crystal Crittenden, AD/CVD Enforcement, Office 4, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–4474 and (202) 482–0989, respectively.

SUPPLEMENTARY INFORMATION:

Period of Review

The POR is December 1, 2000 through November 30, 2001.

Background

On December 3, 2001, the Department published in the **Federal Register** a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on certain cased pencils from the People's Republic of China (PRC), covering the period December 1, 2000 through November 30, 2001. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 66 FR 60183–84 (December 3, 2001).

On December 26, 2001, in accordance with 19 CFR 351.213(b), a U.S. importer, Simmons Rennolds Associates, LLC, a PRC exporter, Kaiyuan/Shandong Rongxin Import and Export Co., Ltd., and a PRC producer of pencils, Laizhou, requested an administrative review of the order on certain cased pencils from the PRC. On December 31, 2001, CFP and SFTC requested an administrative review of their exports of subject merchandise to the United States. In addition, on December 31, 2001, Tianjin Custom Wood Processing Co., Ltd. (TCW) requested a review of its exports of subject merchandise to the United States.[1]

The Department published a notice of initiation of an antidumping duty administrative review covering CFP's, SFTC's and CalCedar-Tianjin's exports on January 29, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 67 FR 4236–37 (January 29, 2002). In that notice, the Department inadvertently omitted Kaiyuan Group Corporation /Shandong Rongxin Import and Export Co., Ltd. and Laizhou from the list of companies to be reviewed. The Department published a notice of initiation of an antidumping duty administrative review covering Kaiyuan Group Corporation (Kaiyuan) and Laizhou on February 26, 2002. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 67 FR 8780–81 (February 26, 2002). We initiated the review on Kaiyuan believing that the names Kaiyuan and Shandong Rongxin Import and Export Co., Ltd. (Shandong), refer to the same company. Subsequent to our initiation of the review, we learned that Kaiyuan and Shandong are different companies which should have been listed separately in the initiation notice. Shandong, which is owned in part by Kaiyuan, was the exporter of subject merchandise during the POR while Kaiyuan had no business operations during the POR. Thus, as noted below, we are preliminarily rescinding this review with respect to Kaiyuan. Therefore, we are conducting a review of Shandong's exports of subject merchandise and will preliminarily assign the appropriate dumping margin to Shandong, if it qualifies for a separate rate. However, we will continue to examine the relationship between Kaiyuan and Shandong in assigning dumping margins for the final results of review.

On January 11, 2002, we issued antidumping duty questionnaires to CFP, SFTC, and CalCedar-Tianjin. On February 20, 2002, we issued an antidumping duty questionnaire to Shandong and Laizhou. In its March 26, 2002 response to the Department's questionnaire, Laizhou stated that it did not export subject merchandise to the United States during the POR. On April 24, 2002, within 90 days of publication of the initiation notice for this review, SFTC withdrew its request for an administrative review. On July 31, 2002, CFP withdrew its request for an administrative review. Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department may extend the deadline for completion of the preliminary results of an administrative review if it determines that it is not practicable to complete the preliminary results of a review within the statutory time limit of 245 days. On August 16, 2002, in accordance with the Act, the Department extended the time limit for the preliminary results of this review until December 31, 2002 (*see Certain Cased Pencils from the People's Republic of China: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 55197 (August 28, 2002)).

The Department is conducting this administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by this order are shipments of certain cased pencils of any shape or dimension which are writing and/or drawing instruments that feature cores of graphite or other materials, encased in wood and/or man-made materials, whether or not decorated and whether or not tipped (*e.g.*, with erasers, etc.) in any fashion, and either sharpened or unsharpened. The pencils subject to the order are classified under subheading 9609.10.00 of the Harmonized Tariff Schedules of the United States (HTSUS). Specifically excluded from the scope of the order are mechanical pencils, cosmetic pencils, pens, non-cased crayons (wax), pastels, charcoals, and chalks.

Although the HTSUS subheading is provided for convenience and customs purposes our written description of the scope of the order is dispositive.

Preliminary Partial Rescission of Review

We are preliminarily rescinding this review with respect to Kaiyuan and Laizhou because they reported that they made no shipments of subject merchandise to the United States during the POR. The Department reviewed Customs data which supports the claims that these companies did not export subject merchandise to the United States during the POR.

Final Partial Rescission of Review

In addition, we are rescinding this review with respect to CFP and SFTC because these companies withdrew their requests for review and no other interested party requested a review of either company. Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of the notice of initiation of the requested review. SFTC withdrew its request for review within the 90 day time limit. Accordingly, we are rescinding the administrative review of SFTC's exports of subject merchandise for the period December 1, 2000 through November 30, 2001, and will issue appropriate assessment instructions to Customs. On July 31, 2002, CFP withdrew its request for review. Although this withdrawal came after the 90-day period for withdrawing a review request, there were no other requests to review CFP and it is otherwise reasonable to rescind the review. *See* 19 CFR 351.213 which provides the Secretary the authority to extend the deadline for companies to withdraw requests for review. Further, this action is consistent with the Department's practice. *See e.g., Frozen Concentrated Orange Juice From Brazil; Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 40913 (June 14, 2002) where, pursuant to a request filed after the 90 day deadline, the Department rescinded the review with respect to one respondent. Therefore, the Department has decided

[1] TCW is wholly-owned by California Cedar Products Company (CalCedar). CalCedar is a privately held U.S. company incorporated in the State of California. Hereinafter we have referred to the entity CalCedar, including its subsidiary TCW, as CalCedar-Tianjin.

that it is reasonable to accept CFP's withdrawal of its request for review.

Separate Rates Determination

In proceedings involving nonmarket economy (NME) countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in a NME country this single rate, unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. Shandong and CalCedar-Tianjin provided the separate rates information requested by the Department and reported that their export activities are not subject to government control.

We examined the separate rates information provided by Shandong and CalCedar-Tianjin in order to determine whether the companies are eligible for a separate rate. The Department's separate rates test, which is used to determine whether an exporter is independent from government control, does not consider, in general, macroeconomic/border-type controls, e.g., export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. The test focuses, rather, on controls over the investment, pricing, and output decision-making process at the individual firm level. *See Certain Cut- to-Length Carbon Steel Plate from Ukraine: Final Determination of Sales at Less than Fair Value*, 62 FR 61754, 61757 (November 19, 1997); *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities so as to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising out of the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). In accordance with the separate rates criteria, the Department assigns separate rates in NME cases only if the respondents can demonstrate the absence of both de jure and de facto governmental control over export activities.

1. Absence of *De Jure* Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (1) an absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20508 (May 6, 1991).

Shandong and CalCedar-Tianjin reported that the merchandise under review was not subject to restrictive stipulations associated with their export licenses (*e.g.*, pencils were not on any government list of products subject to export restrictions or subject to special export licensing requirements). Shandong and CalCedar-Tianjin submitted copies of their business licenses in their questionnaire responses. We found no inconsistencies with their statements regarding the absence of restrictive stipulations associated with their business licenses. Furthermore, Shandong and CalCedar-Tianjin submitted copies of PRC legislation demonstrating the statutory authority for establishing the *de jure* absence of government control over the companies. Thus, we believe that the evidence on the record supports a preliminary finding of absence of *de jure* governmental control based on: (1) an absence of restrictive stipulations associated with the business licenses of CalCedar-Tianjin and Shandong; and (2) the applicable legislative enactments decentralizing control of PRC companies.

2. Absence of *De Facto* Control

The Department typically considers four factors in evaluating whether a respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by, or are subject to, the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding the disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87 (May 2, 1994); *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol From the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

As stated in previous cases, there is some evidence that certain enactments of the PRC central government have not been implemented uniformly among different sectors and/or jurisdictions in the PRC. *See Silicon Carbide*, 56 FR at 22587 (May 2, 1994). Therefore, the Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

Shandong and CalCedar-Tianjin reported that they determine prices for sales of the subject merchandise based on market principles, the cost of the merchandise, and profit. Moreover, Shandong and CalCedar-Tianjin stated that they negotiated the price directly with their customers. Also, Shandong and CalCedar-Tianjin claimed that their prices are not subject to review or guidance from any governmental organization. In addition, the record indicates that Shandong and CalCedar-Tianjin have the authority to negotiate and sign contracts and other agreements. Further, Shandong and CalCedar-Tianjin claimed that their negotiations are not subject to review or guidance from any governmental organization. Finally, there is no evidence on the record to suggest that there is any governmental involvement in the negotiation of their contracts.

Furthermore, Shandong and CalCedar-Tianjin reported that they have autonomy in making decisions regarding the selection of management. Shandong and CalCedar-Tianjin indicated that their selection of management is not subject to review or guidance from any governmental organization and there is no evidence on the record to suggest that there is any governmental involvement in the selection of the management of Shandong and CalCedar-Tianjin.

Finally, Shandong reported that it retains the proceeds of its export sales, and its management determines how to use profits. CalCedar-Tianjin stated that it operates in accordance with market principles and calculates profits and losses in a normal commercial manner. There is no evidence on the record with respect to Shandong or CalCedar-Tianjin to suggest that there is any governmental involvement in decisions regarding disposition of profits or financing of losses.

Therefore, we find that the evidence on the record supports a preliminary finding of absence of *de facto*

governmental control based on record statements and supporting documentation showing that: (1) Shandong and CalCedar-Tianjin set their own export prices independent of the government and without the approval of a government authority; (2) Shandong and CalCedar-Tianjin have the authority to negotiate and sign contracts and other agreements; (3) Shandong and CalCedar-Tianjin have adequate autonomy from the government regarding the selection of management; and (4) Shandong and CalCedar-Tianjin retain the proceeds from their sales and make independent decisions regarding the disposition of profits or financing of losses.

The evidence placed on the record of this review by Shandong and CalCedar-Tianjin demonstrates an absence of government control, both in law and in fact, with respect to their exports of the merchandise under review, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. Therefore, for the purposes of these preliminary results, we are granting a separate rate to both Shandong and CalCedar-Tianjin.

Fair Value Comparisons

To determine whether the respondents' sales of subject merchandise were made at less than NV, for Shandong, we compared the export price (EP) to NV, as described in the *Export Price* and *Normal Value* sections of this notice, below. For CalCedar-Tianjin, we compared the constructed export price (CEP) to NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice, below.

Export Price

In accordance with section 772(a) of the Act, the Department calculated an EP for sales by Shandong to the United States because the subject merchandise was sold directly to an unaffiliated customer in the United States prior to importation and CEP methodology was not otherwise indicated. We made deductions from the sales price for foreign inland freight, foreign brokerage and handling, and domestic inland insurance. Each of these services was provided by a NME vendor, and thus, we based the deductions for these movement charges on surrogate values.

We valued foreign brokerage and handling using Indian values that were reported in the public version of the questionnaire response placed on the record in *Certain Stainless Steel Wire Rod from India; Preliminary Results of Antidumping Duty Administrative and New Shipper Review*, 63 FR 48184 (September 9, 1998) (*India Wire Rod*). We valued domestic inland insurance using the Department's recently revised *Index of Factor Values for Use in Antidumping Duty Investigations Involving Products from the PRC* (available on the Department's website at http://ia.ita.doc.gov/factorv/prc/). We identify the source used to value foreign inland freight in the *Normal Value* section of this notice, below. We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, except labor, using the wholesale price indices (WPI) for India as published in the International Monetary Fund's (IMF's) publication, *International Financial Statistics*.

Constructed Export Price

In accordance with section 772(b) of the Act, the Department calculated a CEP for sales by CalCedar-Tianjin to the United States because the first sale to unaffiliated purchasers occurred after importation of the merchandise into the United States. CalCedar-Tianjin sold the subject merchandise to unaffiliated U.S. customers through its U.S. operations. We calculated CEP based on FOB and delivered prices from the respondent's U.S. parent company to unaffiliated customers. In accordance with section 772(c) of the Act, we deducted from the starting price movement charges including foreign inland freight, international freight, marine insurance, U.S. inland freight, U.S. customs duties, and U.S. warehousing expenses. In accordance with section 772(d)(1) of the Act, as applicable, we made deductions for the following selling expenses that related to economic activity occurring in the United States: indirect selling expenses, inventory carrying costs, and direct selling expenses (imputed credit expenses). In accordance with section 772(d)(3) of the Act, we deducted from the starting price an amount for profit.

Because all of the subject merchandise exported by CalCedar-Tianjin during the POR was shipped to the United States using a market-economy shipper and the shipper was paid using a market-economy currency, we used the reported cost of international freight to calculate CEP rather than a surrogate value. Additionally, all shipments of CalCedar-Tianjin's subject merchandise were insured through a market-economy marine insurance provider and the provider was paid using a market-economy currency. Therefore we used the actual price paid for marine insurance for all of CalCedar-Tianjin's sales. *See Non-Frozen Apple Juice Concentrate from the People's Republic of China; Preliminary Results of 1999–2001 Administrative Review and Partial Rescission of Review*, 67 FR 45451, 45466 (July 9, 2002), where the Department noted that when some or all of a specific company's ocean freight or marine insurance was provided directly by market economy companies and paid for in a market economy currency, it is appropriate to use the reported market economy ocean freight or marine insurance cost for all U.S. sales made by that company. Also, see 19 CFR 351.408(c)(1).

As noted in the EP section above, we valued foreign brokerage and handling using an Indian value for brokerage and handling identified in *India Wire Rod*. Because this value was in effect during a period that is not contemporaneous with the POR, we inflated the value using the Indian WPI. We identify the source used to value foreign inland freight in the *Normal Value* section of this notice, below.

Normal Value

For exports from NME countries, section 773(c)(1) of the Act provides that the Department shall determine NV using a factors of production (FOP) methodology if: (1) the subject merchandise is exported from a NME country, and (2) available information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. Section 351.408 of the Department's regulations sets forth the methodology used by the Department to calculate the NV of merchandise exported from NME countries. In every case conducted by the Department involving the PRC, the PRC has been treated as a NME. Since none of the parties to this proceeding contested such treatment, we calculated NV in accordance with section 773(c)(3) and (4) of the Act and section 351.408(c) of the Department's regulations.

In accordance with section 773(c)(3) of the Act, the FOPs utilized in producing pencils include, but are not limited to: (1) hours of labor required; (2) quantities of raw materials employed; (3) amounts of energy and other utilities consumed; and (4) representative capital costs, including depreciation. In accordance with section 773(c)(4) of the Act, the Department valued the FOPs, to the extent possible, using the costs of the FOP in a market economy that is (1) at a level of economic development comparable to the PRC, and (2) a significant producer of comparable merchandise. We determined that India is comparable to

the PRC in terms of per capita gross national product and the national distribution of labor. Furthermore, India is a significant producer of comparable merchandise. In instances where Indian surrogate value information was not available, we relied on Indonesian, Philippine, and U.S. values as noted below. Indonesia and the Philippines are also comparable to the PRC in terms of per capita gross national product and the national distribution of labor, and are significant producers of comparable merchandise. *See Memorandum From Jeffrey May, Director, Office of Policy, to Holly Kuga, Senior Office Director, AD/CVD Enforcement*, dated July 31, 2002, and *Memorandum from Paul Stolz to File*, dated December 16, 2002, which are on file in the Central Records Unit (CRU), room B-099 of the main Commerce building. We valued Chinese Lindenwood, the wood product used to produce pencils in the PRC, using publicly available, published U.S. prices for American Basswood because price information for Chinese Lindenwood and American Basswood is not available elsewhere.[2]

In accordance with section 773(c)(1) of the Act, for purposes of calculating NV, we attempted to value the FOPs using surrogate values that were in effect during the POR. However, when we were unable to obtain the surrogate values in effect during the POR, we adjusted the values, as appropriate, to account for inflation or deflation between the effective period and the POR. We calculated the inflation or deflation adjustments for all factor values, except labor, using the WPI for India as published in *International Financial Statistics*. We valued the FOP as follows:

1) We calculated a surrogate value for Chinese Lindenwood Pencil Slats using publicly available U.S. lumber prices for Basswood published in the *2002 Hardwood Market Report* for the period December 2000 to November 2001.

2) We valued the following material inputs using Indian import data from the Monthly Statistics of the Foreign Trade of India (MSFTI) for December 2000 November 2001: erasers, ferrules, wax, glue, foil, color leads/cores and scrap wood.

3) We valued black cores/leads using Indian import data from the Eximkey.com database, operated by the Asis Group, Asis Infotech Pvt. Ltd.

4) In accordance with section 351.408 (c)(1) of the Department's regulations, for CalCedar-Tianjin, we valued cedar pencil stock and stain at their actual acquisition cost because these inputs were purchased from a market economy supplier in a market economy currency. Specifically, CalCedar-Tianjin, purchased these inputs using U.S. dollars. Furthermore, we valued cedar pencil stock that was produced by CalCedar-Tianjin, in the United States and used in the PRC to produce subject merchandise using CalCedar-Tianjin's cost of production in the United States.

5) We valued the following packing materials using Indian import data from the MSFTI for December 2000 November 2001: plastic straps, plastic bags, cartons, packing boxes, packing tape, labels, corrugated cardboard, and pallets.

6) We valued energy inputs as follows: we valued natural gas using the Indonesian value reported in the publication *Energy Prices and Taxes, Quarterly Statistics (Third Quarter 2001)*, published by the International Energy Agency. We valued electricity using the 2002 industry/commercial category-wise average tariff for electricity (U.S. dollars/kWh) used by Indian industrial enterprises from the publicly available *Key World Energy Statistics (2002) (Energy Statistics)*, published by the International Energy Agency. We also valued diesel fuel using the Indian value reported in the publication *Energy Statistics*.

7) We valued water using the Indian value reported in the publication *Second Water Utilities Data Book (1997)*, published by the Asian Development Bank.

8) In accordance with 19 CFR 351.408(c)(3), we valued labor using a regression-based wage rate for the PRC listed in the Import Administration web site under ''Expected Wages of Selected NME Countries.'' See http://ia.ita.doc.gov/wages.

9) We derived ratios for factory overhead, selling, general and administrative (SG&A) expenses, and profit using the financial statements of Asia Wood International Corporation, a Philippine wood products producer. From this information, we were able to calculate factory overhead as a percentage of direct materials, labor, and energy expenses; SG&A expenses as a percentage of the total cost of manufacturing; and profit as a percentage of the sum of the total cost of manufacturing and SG&A expenses.

10) We used the following sources to value truck and rail freight services incurred to transport the finished product to the port and direct materials, packing materials, and coal from the suppliers of the inputs to the producers. We valued truck freight services using the 1999 rate quotes reported by Indian freight companies and used in the less than fair value investigation of bulk aspirin from the PRC. *See Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). We valued rail freight services using the April 1995 rates published by the Indian Railway Conference Association. We adjusted these values, as appropriate, to account for inflation or deflation between the effective period and the POR.

For further discussion of the surrogate values used in this review, see the *Memorandum From The Team Regarding Selection of Surrogate Values for Factors of Production for the Preliminary Results of the Administrative Review of Certain Cased Pencils from the People's Republic of China*, (December 31, 2002), which is on file in the CRU-Public File.

Use of Partial Facts Available

Section 776(a)(1) of the Act provides for the use of facts available if information needed by the Department to make a determination is not on the record. In this review, one of the pencil producers that supplied Shandong with pencils refused to report any information regarding its FOP. Because the necessary information regarding this producer's FOP is not on the record, the Department has resorted to the use of facts available in order to calculate the margin on Shandong's sales of the uncooperative producer's pencils.

Pursuant to section 776(b) of the Act, when the Department uses facts available in reaching its determination, it may apply adverse inferences, if an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 771(9) of the Act defines an interested party as ''a foreign manufacturer, producer, or exporter ... of subject merchandise ... .'' Because the producer in question is an interested party within the meaning of section 776(b) of the Act, and it is the party who failed to supply the requested information, we believe it is appropriate to consider the producer's actions in this matter when determining whether it is appropriate to apply an adverse inference with respect to the use of partial facts available.

[2] Chinese Lindenwood and American Basswood are virtually the same type of wood. U.S. prices for American Basswood were used to value Chinese Lindenwood in the less than fair value investigation. *See Notice of Final Determination of Sales at Less Than Fair Value; Certain Cased Pencils from the People's Republic of China*, 59 FR 55625, 55632 (1994). This methodology was upheld by the Court of International Trade. *See Writing Instrument Manufacturers Association, Pencil Section, et al. v. United States*, Slip Op. 97-151 (Ct. Int'l. Trade, Nov. 13, 1997) at 16.

The record in this review indicates that the interested party at issue here, the uncooperative producer, failed to act to the best of its ability to comply with a request for information. The record contains correspondence between Shandong and the uncooperative producer in which the producer conveyed its intention not to participate in the review. The uncooperative producer stated that it would not supply the requested information because the quantity of pencils it supplied to Shandong was ''very small.'' This interested party producer never offered to supply even a limited amount of the requested information nor did it suggest any alternatives which might satisfy the Department's requirements. Therefore, we find that the use of an adverse inference in selecting from among the facts otherwise available is warranted. This position is consistent with that taken by the Department in *Ferrovanadium and Nitrided Vanadium From the Russian Federation: Notice of Final Results of Antidumping Duty Administrative Review*, 62 FR 65656, 65658 (December 15, 1997) wherein the Department stated that ''by failing to respond Chusovoy {the producer} is an interested party which has not cooperated to the best of its ability under section 776 (b) of the Act. Therefore, we have continued to use an adverse inference in selecting from the facts available to determine the margins for Galt's sales of Chusovoy-produced merchandise ...''.

In making an adverse inference, section 776(b) of the Act states that the Department may rely upon information derived from (1) the petition, (2) the final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753, or (4) any other information placed on the record. As partial adverse facts available, we have assigned the highest margin calculated for any of Shandong's sales, to its sales of subject merchandise manufactured by the uncooperative producer. We believe that this margin will create the proper deterrent to non-cooperation with the Department in future reviews. In addition, it serves as a reasonable estimate of Shandong's dumping margin on these sales because it is based on Shandong's own reported information.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following margins exist for the period December 1, 2000 through November 30, 2001:

Manufacturer/exporter	Margin (percent)
Shandong Rongxin Import and Export Co., Ltd.	27.22
California Cedar Products Company/. Tianjin Custom Wood Processing Co., Ltd.	2.02

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) in accordance with 19 CFR 351.309(c)(1)(ii) and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs in accordance with 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. We will issue a memorandum identifying the date of a hearing, if one is requested, and deadlines for the submission of case briefs and rebuttal briefs. The Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties.

Assessment Rates

Upon completion of this administrative review, the Department will determine, and Customs shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), for CalCedar-Tianjin we have calculated importer-specific assessment rates for merchandise subject to this review. We divided the total dumping margin (calculated as the difference between NV and CEP) for the importer by the entered value of the reviewed sale. Where the importer-specific assessment rate is above *de minimis*, we will direct Customs to assess the resulting ad valorem rate against the entered value of the entry of the subject merchandise by that importer during the POR. For Shandong, we have calculated exporter-specific duty assessment rates for subject merchandise based on the ratio of the total amount of antidumping duties calculated for the examined sales during the POR to the total quantity of sales examined during the POR. We calculated exporter-specific assessment rates for Shandong because there was no information on the record which identified the importers of record. The Department will issue appropriate assessment instructions directly to the Customs within 15 days of publication of the final results of review. If these preliminary results are adopted in the final results of review, we will direct Customs to assess the resulting assessment rates, calculated as described above, on each of the importer's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of pencils from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed companies named above will be the rates for those firms established in the final results of this administrative review; (2) for any previously reviewed PRC or non-PRC exporter with a separate rate not covered in this review, the cash deposit rate will be the company-specific rates established for the most recent period; (3) for all other PRC exporters, the cash deposit rates will be the PRC-wide rates established in the final results of this review; and (4) the cash deposit rates for non-PRC exporters of subject merchandise from the PRC will be the rates applicable to the PRC supplier of that exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f)(2) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties

occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections section 751(a)(1) and 777(i)(1) of the Act.

Dated: December 31, 2002.

Susan H. Kuhbach,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–631 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C-580–851]

Dynamic Random Access Memory Semiconductors from the Republic of Korea: Extension of Time Limit for Preliminary Determination of Countervailing Duty Investigation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit for preliminary determination of countervailing duty investigation.

SUMMARY: The Department of Commerce is extending the time limit for the preliminary determination in the countervailing duty investigation of dynamic random access memory semiconductors from the Republic of Korea from January 27, 2003 until no later than March 31, 2003. This extension is made pursuant to section 703(c)(1)(B) of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act.

EFFECTIVE DATE: January 13, 2003.

FOR FURTHER INFORMATION CONTACT: Suresh Maniam or Ryan Langan at (202) 482–0176 or (202) 482–2613, respectively; Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

SUPPLEMENTARY INFORMATION:

Extension of Due Date for Preliminary Determinations

On November 27, 2002, the Department of Commerce (''the Department'') initiated the countervailing duty investigation of dynamic random access memory semiconductors from the Republic of Korea. *See Notice of Initiation of Countervailing Duty Investigation: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 67 FR 70927 (November 27, 2002). Currently, the preliminary determination is due no later than January 27, 2003. However, pursuant to section 703(c)(1)(B) of the Act, we have determined that this investigation is ''extraordinarily complicated'' and are, therefore, extending the due date for the preliminary determination to no later than March 31, 2003.

Under section 703(c)(1)(B), the Department can extend the period for reaching a preliminary determination until not later than the 130th day after the date on which the administering authority initiates an investigation if: (B) the administering authority concludes that the parties concerned are cooperating and determines that

(i) the case is extraordinarily complicated by reason of

(I) the number and complexity of the alleged countervailable subsidy practices;

(II) the novelty of the issues presented;

(III) the need to determine the extent to which particular countervailable subsidies are used by individual manufacturers, producers, and exporters; or

(IV) the number of firms whose activities must be investigated; and

(ii) additional time is necessary to make the preliminary determination.

In this investigation, we find that all concerned parties are cooperating. We also find that this investigation is extraordinarily complicated due to the number and complexity of the alleged countervailable subsidy practices. We note that it is the Department's position that the appropriate criterion for analysis is not the number of programs in question, but rather the specific transactions (*e.g.*, equity infusions, debt-to-equity conversions, etc.) applied under those programs, which are numerous and appropriately categorized as ''practices.'' In this investigation, the Department will examine 35 programs, many of which have never before been investigated. These allegations present novel issues, including equity infusions, debt forgiveness, bailouts involving new loans and multiple loan refinancings of existing loans. Moreover, the investigation presents the significant general issue of Korean directed credit and, more specifically, whether this directed credit is specific to the semiconductor industry. These issues will require a significant amount of information and complex analysis. The Department must also determine the extent to which the particular countervailable subsidies are used by the individual respondent producers/exporters.

Accordingly, we deem this investigation to be extraordinarily complicated and determine that additional time is necessary to make the preliminary determination. Therefore, pursuant to section 703(c)(1)(B) of the Act, we are postponing the preliminary determination in this investigation until no later than March 31, 2003.

This notice is published pursuant to section 703(c)(2) of the Act.

Dated: January 6, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

[FR Doc. 03–632 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010803A]

Proposed Information Collection; Comment Request; National Marine Sanctuaries - Socioeconomic Impacts of Marine Reserves

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

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 14, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Vernon R. Leeworthy at *Bob.Leeworthy@noaa.gov* or call 301–713–3000.

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this information collection is to give users of National Marine Sanctuaries fair representation in monitoring the socioeconomic impacts of a network of marine reserves (no take areas) in the Channel Islands

National Marine Sanctuary. The proposed information collection is a follow-up to the previous efforts that established baseline estimates of socioeconomic activities in the Channel Islands National Marine Sanctuary. The baseline information was used to estimate the expected impacts of implementing proposed marine reserves. The new information will be used in a monitoring program to test whether, and to what extent, the estimated ''expected'' socioeconomic impacts actually occur.

II. Method of Collection

Respondents complete paper forms assisted by a NOAA data collector.

III. Data

OMB Number: 0648–0408.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions.

Estimated Number of Respondents: 665.

Estimated Time PerResponse: 2 hours.

Estimated Total Annual Burden Hours: 1,330.

Estimated Total Annual Cost to Public: $0.

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 7, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–634 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–08–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010703D]

Pacific Fishery Management Council; Public Meeting/Workshop

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Council) will hold a workshop to review the NMFS Northwest Fisheries Science Center's (NWFSC) bycatch model, and make recommendations regarding how new observer data would be incorporated into the bycatch model.

DATES: The three-day workshop will begin on Monday, January 27, 2003 at 10 a.m. and conclude on Wednesday, January 29, 2003. On Tuesday, January 28 and Wednesday, January 29, the workshop will convene at 8 a.m. and continue until business for the day is completed. Public comments will be allowed at times to be specified by the chair.

ADDRESSES: The workshop will be held at NMFS Northwest Fisheries Science Center, in room 370 W, 2725 Montlake Boulevard East, Seattle, WA 98112; (206) 860–3200.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Ed Waters, Fishery Economics Staff Officer; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the workshop is to review the NWFSC bycatch model and to consider how the new observer data being collected by NWFSC would be incorporated into the bycatch model. The workshop panel will include two members each from the Pacific Fishery Management Council's Scientific and Statistical Committee (SSC) Economics Subcommittee, the SSC Groundfish Subcommittee, the Council's Groundfish Management Team (GMT), the Council's Groundfish Advisory Subpanel (GAP), and independent experts. The chair of the SSC Economics Subcommittee will chair the panel.

Specific tasks for the panel include, (1) review existing literature and methodologies for estimating bycatch rates and discards (including the use of observer data), (2) review code, documentation and results for the NWFSC bycatch model, (3) review status and coverage of NMFS West Coast observer data, (4) review proposals for incorporating observer data into the 2003 bycatch model, and (5) report findings and recommendations to the Council. A complete agenda and terms of reference for the workshop will be posted on the Council's website (*http://www.pcouncil.org/*).

Although nonemergency issues not contained in the workshop meeting agenda may come before the panel for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the panel's intent to take final action to address the emergency.

Special Accommodations

The meeting site is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Michael Lemon at (206) 860–3341, at least 5 days prior to the meeting date.

Dated: January 8, 200.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–636 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 010703C]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The 82nd meeting of the Western Pacific Fishery Council's Scientific and Statistical Committee (SSC) will convene January 28 - 30, 2003 in Honolulu, HI.

DATES: The SSC meeting will be held from 9 a.m. to 5 p.m. on January 28, 2003, and from 8:30 a.m. to 5 p.m. on January, 29–30 2003.

ADDRESSES: The 82nd SSC meeting will be held at the Council office conference

room, 1164 Bishop St., Suite 1400, Honolulu, HI; telephone: (808) 522–8220.

Council address: Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: 808–522–8220.

SUPPLEMENTARY INFORMATION: The SSC will discuss and may make recommendations to the Council on the agenda items below. The order in which agenda items will be addressed can change.

Tuesday, January 28, 2003, 9 a.m.

1. Marine Mammals

a. Monk seal research
b. Monk Seal Recovery Team

2. Crustaceans Fisheries

a. Northwestern Hawaiian Islands lobster research

3. Bottomfish

a. Guam bottomfish management

4. Northwestern Hawaiian Islands/Main Hawaiian Islands Hawaii Undersea Research Laboratory research

Wednesday, 17 May 2000, 8:30 a.m.

5. Pelagic Fisheries

a. Hawaii and American Samoa third quarter longline reports for 2002
b. American Samoa longline observer program
c. American Samoa limited entry program
d. November 2002 Short-tail albatross Biological Opinion
e. Sea turtle conservation and management
i. November 2002 Western Pacific Pelagic Fisheries Biological Opinion
ii. Honolulu Lab mitigation turtle research
iii. Southern longline area closure
iv. Turtle population models
v. Council and NMFS turtle projects
vi. NMFS Technical Expert Workshop
f. International Meetings and Issues
i. Second International Fishers Forum
ii. Third Preparatory Conference for the Establishment of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific

Thursday,18 May 2000, 8:30 a.m.

6. Ecosystem and Habitat

a. Northwestern Hawaiian Islands Coral Reef Sanctuary
b. Northwestern Hawaiian Islands Symposium
c. National Marine Fisheries Service Northwestern Hawaiian Islands Science Workshop
d. Marine Protected Area Working Group

7. Other Business

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to meeting date.

Dated: January 8, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–637 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Availability of the Correlation: Textile and Apparel Categories With the Harmonized Tariff Schedule of the United States for 2003

January 7, 2003.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Keith Daly, Computer Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION: The Committee for the Implementation of Textile Agreements (CITA) announces that the 2003 Correlation, based on the Harmonized Tariff Schedule of the United States, will be available in January 2003 as part of the Office of Textiles and Apparel (OTEXA) Publications CD-Rom.

The CD-Rom may be purchased from the U.S. Department of Commerce, Office of Textiles and Apparel, 14th and Constitution Avenue, NW., room H3100, Washington, DC 20230, ATTN: Barbara Anderson, at a cost of $25. Checks or money orders should be made payable to the U.S. Department of Commerce. The 2003 Correlation will also be available on the OTEXA website at http://otexa.ita.doc.gov/corr.htm.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 03–622 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Planning and Steering Advisory Committee (PSAC)

AGENCY: Department of the Navy, DOD.

ACTION: Notice of closed meeting.

SUMMARY: The purpose of this meeting is to discuss topics relevant to SSBN security. This meeting was previously announced in 67 FR 71154, November 29, 2002, and has since been rescheduled for the date and time shown below.

DATES: The meeting will be held on Wednesday, January 22, 2003, from 9 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Center for Naval Analyses, 4825 Mark Center, Alexandria, VA.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander James Latsko, CNO (N775C2), 2000 Navy Pentagon, NC–1, Washington, DC 20350–2000, (703) 604–7392.

SUPPLEMENTARY INFORMATION: This notice of closed meeting is provided *per* the Federal Advisory Committee Act (5 U.S.C. App. 2). The entire agenda will consist of classified information that is specifically authorized by Executive Order to be kept secret in the interest of national defense and is properly classified pursuant to such Executive Order. Accordingly, the Secretary of the Navy has determined in writing that all sessions of the meeting shall be closed to the public because they concern matters listed in 552b(c)(1) of title 5, United States Code.

Dated: January 8, 2003.

R. E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 03–675 Filed 1–10–03; 8:45 am]

BILLING CODE 3810–FF–P

UNIFORMED SERVICES UNIVERSITY OF THE HEALTH SCIENCES

Sunshine Act Meeting; Notice

AGENCY: Uniformed Services University of the Health Sciences.

TIME AND DATE: 8 a.m. to 4 p.m., February 4, 2003.

PLACE: Uniformed Services University of the Health Sciences, Board of Regents Conference Room (D3001), 4301 Jones Bridge Road, Bethesda, MD 20814–4799.

STATUS: Open—under ''Government in the Sunshine Act'' (5 U.S.C. 552b(e)(3)).

MATTERS TO BE CONSIDERED:

8 a.m. Meeting—Board of Regents

(1) Approval of Minutes—October 24, 2002
(2) Faculty Matters
(3) Departmental Reports
(4) Financial Report
(5) Report—President, USUHS
(6) Report—Dean, School of Medicine
(7) Report—Dean, Graduate School of Nursing
(8) Comments—Chairman, Board of regents
(9) New Business

CONTACT PERSON FOR MORE INFORMATION: Mr. Bobby D. Anderson, Executive Secretary, Board of Regents, (301) 295–3116.

Dated: January 8, 2003.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 03–778 Filed 1–9–03; 3:35 pm]

BILLING CODE 5001–08–M

DEPARTMENT OF ENERGY

Agency Information Collection Extension

AGENCY: Department of Energy.

ACTION: Submission for Office of Management and Budget review; comment request.

SUMMARY: The Department of Energy (DOE) has submitted an information collection package, 1910–0300, Environment, Safety and Health, to the Office of Management and Budget for extension under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This package contains information collections that are used by Departmental management to exercise management oversight and control over management and operating (M&O) contractors of DOE's government-owned contractor-operated (GOCO) facilities, offsite contractors, and the public. The contractor management oversight and control function concerns the ways in which DOE contractors provide goods and services for DOE organization and activities in accordance with the terms of their contracts; the applicable statutory, regulatory and mission support requirements of the Department; and regulations in the functional area covered by this package.

DATES: Comments must be filed on or before February 12, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the OMB Desk Officer of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3087. (Also, please notify the DOE contact listed in this notice.)

ADDRESSES: Address comments to DOE Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), Room 10102, New Executive Office Building, 725 17th Street, NW., Washington, DC 20503. (Comments should also be addressed to Susan L. Frey, Director, Records Management Division, Office of Business and Information Management, Office of the Chief Information Officer, IM–11/Germantown Bld., U.S. Department of Energy, 1000 Independence Ave, SW., Washington, DC 20585–1290.

SUPPLEMENTARY INFORMATION: (1) *Title:* Environment, Safety and Health; (2) *Current OMB Control number:* 1910–0300; (3) *Summary:* A three-year extension is requested which includes both mandatory and voluntary response obligations; (4) *Purpose:* This information is required by the Department to ensure that the Departmental environment, safety and health resources and requirements are managed efficiently and effectively and to exercise management oversight of DOE contractor; (5) *Type of Respondents:* DOE management and operating contractors and offsite contractors; (6) *Estimated number of responses:* 11,344; (7) *Estimated total burden hours:* 258,131.

STATUTORY AUTHORITY: Depart of Energy Organization Act, Public Law 92–01 Issued in Washington, DC, on January 7, 2003.

Susan L. Frey,

Director, Records Management Division, Office of Business and Information Management, Office of the Chief Information Officer.

[FR Doc. 03–583 Filed 1–10–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Agency Information Collection Submitted for OMB Review and Comment.

AGENCY: U.S. Department of Energy.

ACTION: Notice and request for OMB review and approval.

SUMMARY: The Department of Energy (DOE) has submitted the proposed collection of information described in this Notice to the Office of Management and Budget (OMB) for review and approval, in accordance with the Paperwork Reduction Act of 1995. This electronic form will certify to DOE that respondents who wish to purchase DOE high-risk personal property will comply with all applicable U.S. Laws and Regulations.

DATES: Comments regarding this collection must be filed on or before February 12, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the time period allowed by this Notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–7318. In addition, please notify the DOE contact listed in this Notice.

ADDRESSES: Address comments to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street, NW., Washington, DC 20503. (Comments should also be addressed to Susan L. Frey, Director, Records Management Division, IM–11/Germantown Bldg., Office of Business and Information Management, Office of the Chief Information Officer, U.S. Department of Energy, 1000 Independence Ave., SW., Washington DC, 20585–1290.

SUPPLEMENTARY INFORMATION: This package contains: (1) *Title*: End-Use Certificate; *(2) OMB Control No.*: NEW; *(3) Type of Request*: New; *(4) Purpose*: When acquiring High Risk Property from the Department of Energy, the End-Use Certificate (EUC) will be used to check respondents to determine if they are responsible, not debarred bidders, Specially Designated Nationals or Blocked Persons, or have not violated U.S. export laws, and to advise recipients that when property is to be exported, they must comply with all applicable U.S. Laws and Regulations, including the Arms Export Control Act (22 U.S.C. 2751 et seq); Export Administration Act of 1979 (50 U.S.C. App. 2401 et seq); continued under

Executive Order 12924; International Traffic in Arms Regulations (ITAR) (22 CFR 120 et seq); Export Administration Regulations (EAR) (15 CFR 730 et seq); Foreign Assets Control Regulations (OFAC) (31 CFR 500 et seq); and the Espionage Act (18 U.S.C. 793 et seq). *(5) Type of Respondents*: Individuals or households; business or other for-profits, not-for-profit institutions; farms and state, local or tribal Government; *(6) Estimated Number of Respondents*: 5,000 perspective purchases; *(7) Estimated Total Burden Hours*: 1,650.

Statutory Authority: Paperwork Reduction Act of 1995, Public Law No. 104–13, 44 U.S.C Section 3507(a).

Issued in Washington, DC, on January 7, 2003.

Susan L. Frey,

Director, Records Management Division, Office of Business and Information Management, Office of the Chief Information Officer.

[FR Doc. 03–584 Filed 1–10–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Department of Energy (DOE), has submitted an information collection package to the OMB for renewal under the Paperwork Reduction Act of 1995. The package requests a 3-year extension of its financial management information collection, OMB Control Number 1910–0500. This information is required by the Department to ensure that financial management resources and requirements are managed efficiently and effectively and to exercise management oversight of DOE contractors.

DATES: Comments regarding the information collection package should be submitted to the OMB Desk Officer at the following address no later than February 12, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this Notice, please advise the OMB Desk Officer of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at (202) 395–3087. In addition, please notify the DOE contact listed in this Notice.

ADDRESSES: Address comments to the DOE Desk Officer, Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, New Executive Office Building, Room 10102, 725 17th Street, NW., Washington, DC 20503. Comments should also be addressed to Susan L. Frey, Director, Records Management Division, Office of Business and Information Management, Office of the Chief Information Officer, IM–11/Germantown Bld., U.S. Department of Energy, 1000 Independence Ave, SW., Washington, DC 20585–1290.

SUPPLEMENTARY INFORMATION: The package contains: *(1) Title*: Financial Management; *(2) Current OMB Control Number*: 1910–0500; *(3) Purpose*: This information is required by the Department to ensure that financial management resources and requirements are managed efficiently and effectively and to exercise management oversight of DOE contractors; *(4) Type of Respondents*: DOE management and operating contractors and offsite contractors; *(5) Estimated Number of Responses*: 12,626; *(6) Estimated Total Burden Hours*: 152,704, including recordkeeping hours, required to provide the information; *(7) Number of Collections*: The package contains 10 information and/or recordkeeping requirements.

STATUTORY AUTHORITY: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, DC on January 7, 2003.

Susan L. Frey,

Director, Records Management Division, Office of Business and Information Management, Office of the Chief Information Officer.

[FR Doc. 03–585 Filed 1–10–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

[Presolicitation # DE–PS36–03GO93005]

Low Wind Speed Technology for Small Wind Turbines

AGENCY: Golden Field Office, U.S. Department of Energy.

ACTION: Notice of presolicitation request for comments and expression of interest.

SUMMARY: The U.S. Department of Energy (DOE) is announcing its intention to issue a solicitation for financial assistance and is seeking expressions of interest and comments on a proposed approach to cost-shared, public-private projects for the development of cost-effective small wind turbines (100 kilowatts or less), for use in distributed power applications at low wind speeds throughout the United States. The purpose of this announcement is to obtain an indication of the level of interest by industry participants and seek comments on the proposed scope of a low wind speed, small wind turbine development solicitation.

DATES: Expressions of interest and comments to the planned solicitation are due January 24, 2003. The solicitation is planned to be issued approximately 30 days after comments are received. Should DOE decide to proceed, a formal solicitation will be issued.

ADDRESSES: To obtain a copy of the solicitation, once issued, interested parties should access the DOE Golden Field Office Home Page at *http://www.golden.doe.gov/businessopportunities.html,* click on ''Solicitations,'' and then access the solicitation number identified above. The DOE Golden Field Office Home Page will provide a link to the solicitation synopsis in the Industry Interactive Procurement System (IIPS) web site and provide instructions on using IIPS. The solicitation will also be available directly through IIPS at *http://e-center.doe.gov* by browsing opportunities by Contract Activity, for those solicitations issued by the Golden Field Office. To be notified when the solicitation is issued, join the Solicitation Mailing List specific to this notice through IIPS. DOE will not issue paper copies of the solicitation. For questions regarding the operation of IIPS, contact the IIPS Help Desk at *IIPS_HelpDesk@e-center.doe.gov* or at (800) 683–0751.

FOR FURTHER INFORMATION: Questions or requests for additional information should be sent electronically to *godwt@nrel.gov.* Expressions of interest and comments on the proposed solicitation should be submitted electronically to *godwt@nrel.gov.*

SUPPLEMENTARY INFORMATION: The U.S. Department of Energy (DOE) is soliciting expressions of interest and comments on a proposed approach to cost-shared, public-private projects for the development of cost-effective small wind turbines (100 kilowatts or less), for use in distributed power applications in low wind speed areas throughout the United States, and primarily targeting residential and small business uses. A major focus of the DOE Wind Program is the development of wind turbine

technology that is cost effective for use in the vast areas of the Nation with lower wind speeds than are currently economically viable. The low wind speed small wind turbine development activities are planned as cooperative efforts with industry, and guided by several principles: (1) Public/private partnerships will be developed to support continuing innovation. These partnerships are intended to be flexible and adaptive, support multiple pathways, and offer opportunities for new players to enter the program; (2) wind program research and testing activities will be closely aligned to support these partnerships; (3) applied systems integration activities will guide portfolio planning and technology transfer; and (4) program evaluations will be performed regularly using performance-based management techniques as the basis for performance criteria, periodic review, and adjustment.

The goal of this low wind speed technology effort is to develop a class of small wind turbines (100 kW or less) for residential and small business applications that provide cost effective performance in Class 3 wind resources by 2007. To achieve this goal, DOE intends to provide financial support via Grants and Cooperative Agreements for public-private partnerships to complete concept studies, component development, and/or turbine prototype development for multiple technology pathways. Given the range of turbine sizes and applications of interest, performance goals for each partnership effort will be established individually. The objective for each effort is to achieve the level of cost effectiveness in Class 3 wind resources that can be achieved in Class 5 resources with current baseline technology. Applicants will propose an appropriate cost performance target for Class 3 wind resources.

Industry partnerships and related supporting research and testing activities will be coordinated to facilitate technology transfer and transition of conceptual design and component development projects into system development. All partnership activities will be periodically reviewed against established milestones as the basis for funding and planning adjustments needed to optimize the portfolio for success. Under the planned solicitation, DOE will be soliciting applications for: (1) Conceptual Design Studies, (2) Component Development, and (3) Prototype Turbine Development projects, for small-scale turbine designs (less than 100 kilowatts) for distributed power applications.

Conceptual Design Studies (Technical Area 1) are envisioned as 6–12 month efforts with a maximum of DOE funding being $100,000 for any single award. No cost share will be required. Awards for Conceptual Design Studies are anticipated to be Grants.

Component Development (Technical Area 2) is envisioned as an 18 to 24 month effort with the DOE funding being between $500,000 and $1 million for any single award. The program anticipates a cost-shared agreement with a minimum cost share requirement of 30% by the offeror. As the program intends to be substantially involved, awards are expected to be Cooperative Agreements.

Prototype Turbine Development (Technical Area 3) is envisioned as a three-year effort with a maximum DOE funding of $1,500,000 for any single award. The program intends to use a cost-shared agreement with a minimum cost share requirement of 50% by the offeror. As DOE intends to be substantially involved, awards are expected to be Cooperative Agreements. Initial prototype wind turbines are expected to complete field-testing by 2007.

The program expects to award one to three agreements under each Technical Area with projects incrementally funded on a fiscal year basis. Additional consideration in the evaluation process will be given for cost sharing in excess of the minimum required amount. Applicants may submit more than one application under any or all the Technical Areas. However, diversity of technology and participants within the DOE Wind Program will be factors in selecting applications for negotiation of award.

Throughout the projects, the program will encourage the use of best business and project-management practices. Disciplined engineering development processes, including rigorous laboratory and field tests to verify component and subsystem designs, will be emphasized.

Applications need to include a description of the proposed concept in sufficient detail as to allow evaluation by a group of knowledgeable reviewers; identify planned teaming arrangements; and include a proposed budget and schedule. The program expects a majority of the work to be performed within the United States, and applicants will be asked to demonstrate the economic benefits of the proposed project to the United States. Qualified business and technical professionals will evaluate the written applications. Awards will be based upon technical viability, projected Cost of Energy (COE), capabilities, and the likelihood of achieving program goals and objectives.

The American World Energy Association (AWEA) U.S. Small Wind Turbine Industry Roadmap document (*http://www.awea.org/smallwind/documents/31958.pdf*) identifies specific areas of interest that relate to future advances in distributed wind technology. These areas of interest include: (1) Reduction in turbine system costs; (2) reduction in manufacturing costs; (3) improvements in reliability; (4) improvements in power electronics design and reliability; (5) reduction of noise; (6) development of better analytical tools; (7) improvement in overspeed control knowledge; and (8) development of more cost-effective, taller towers.

Expressions of interest are sought from potential applicants to the forthcoming solicitation, and comments on the proposed plan are sought from all interested parties. Expressions of interest should not include detailed proposals, but should include the following information: (1) The names, addresses, telephone and facsimile numbers, and electronic mail address of the primary contact person for the planned application; (2) potential participants, their affiliation, and proposed roles, including the need for support from National Laboratories such as the National Renewable Energy Laboratory (NREL) or Sandia National Laboratory (SNL); (3) comments on the proposed solicitation; (4) a statement indicating the Technical Area under which an application for financial assistance should be submitted; and (5) a brief description of the concept to be proposed. Responses to this notice should not exceed five pages.

To be considered, responses should be received by January 24, 2003. Once issued, Solicitation number DE–PS36–03GO93005 will include complete information including technical aspects, funding, application preparation instructions, evaluation criteria, and other factors that will be considered when selecting applications for funding. Issuance of the solicitation is planned for February 2003, with applications due approximately 60 calendar days after the solicitation is issued. Information on Financial Assistance Regulations (10 CFR 600), proposal firms, award format, or post award forms can be obtained through the DOE Golden Field Office Home Page *http://www.golden.doe.gov/businessopportunities.html.*

Issued in Golden, Colorado, on December 17, 2002.

Jerry L. Zimmer,

Director, Office of Acquisition and Financial Assistance.

[FR Doc. 03–582 Filed 1–10–03; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2002–0044; FRL–7279–7]

Educational Outreach and Baseline Assessment of Existing Exposure and Risks of Exposure to Lead Poisoning of Tribal Children; Notice of Funds Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is soliciting grant proposals from Indian Tribes to support Tribal lead outreach and educational awareness and conduct baseline assessment of existing exposure and risks of exposure to lead poisoning of Tribal children. EPA is awarding grants which will provide approximately $1.4 million to Indian Tribes to perform those activities and to encourage Indian Tribes to consider continuing such activities in the future. This notice describes eligibility, activities, application procedures and requirements, and evaluation criteria.

DATES: All grant proposals must be received on or before March 14, 2003.

ADDRESSES: Grant proposals must be submitted by mail. Please follow the detailed instructions as provided in Unit I. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Acting Director, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Darlene Watford, Program Assessment and Outreach Branch, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 566–0516; e-mail address: watford.darlene@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are a Federally Recognized Indian Tribe or Tribal Consortium. For the purposes of this notice, a partnership between two or more Federally Recognized Indian Tribes is considered a consortium. Potentially affected entities may include, but are not limited to:

921150 American Indian and Alaskan Native Tribal Governments.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the **Federal Register** document published by the Bureau of Indian Affairs (BIA) on March 13, 2000 (65 FR 13298) which lists all Federally Recognized Indian Tribes. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPPT–2002–0044. The official public docket consists of documents specifically referenced in this action and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the EPA Docket Center, Rm. B102–Reading Room, EPA West, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The EPA Docket Center Reading Room telephone number is (202) 566–1744 and the telephone number for the OPPT Docket, which is located in EPA Docket Center, is (202) 566–0280.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at http://www.epa.gov/edocket/ to access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

You may also access this document at the Office of Pollution Prevention and Toxics Lead Home Page at http://www.epa.gov/lead/new.htm.

C. How and To Whom Do I Submit a Grant Proposal?

You may submit one original and three double-sided copies of the grant proposal through the mail to: Darlene Watford, Program Assessment and Outreach Branch, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

For overnight/express delivery service, send grant proposals to: Darlene Watford, Program Assessment and Outreach Branch, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1301 Constitution Ave., NW., EPA West (Old Customs Bldg.), 4th Floor Connecting Wing, Room 4355, Washington, DC 20004–0001.

II. What Action is the Agency Taking?

EPA is soliciting proposals from Tribes or Tribal Consortia for grants to support educational outreach activities and/or baseline assessment of existing exposure and risks of exposure to lead poisoning of Tribal children. The educational outreach grants will provide Tribes with the means to launch efforts to educate Tribal families about dangers to children of exposure to lead-based paint hazards. The baseline assessments may include inspecting pre-1978 Tribal housing and/or child-occupied facilities for lead-based paint hazards, blood-lead screening to collect blood-lead level data of Tribal children, testing of paint, dust, and soil for hazardous lead levels, training individuals to perform lead inspections and risk assessments, and

funding contractor support necessary to implement these activities. EPA is awarding grants which will provide approximately $1.4 million for Tribes or Tribal Consortia to perform these activities. Decisions on awarding the grant funds will be made based on the evaluation of the proposals using the criteria specified in Unit III. Tribes or Tribal Consortia that submit qualifying proposals will be notified by EPA and will be required to submit official grant applications.

III. What Should I Consider as I Prepare My Grant Proposal?

A. Scope and Purpose

The purpose of these grants is to support Tribal lead awareness outreach (educational) activities and the efforts of Indian Tribes to identify children's risks to lead by conducting a baseline assessment of existing exposure and/or potential lead exposures. The outreach activities may be provided to children, parents, daycare providers, and legal custodians on the potential health risks associated with lead exposure. As a result of the baseline assessment, Tribes may use the resulting data to evaluate whether there is a need to develop and implement an authorized Tribal lead-based paint program (40 CFR 745.324).

B. Eligibility

Eligible recipients are any Federally Recognized Indian Tribes or Tribal Consortia only. Federally Recognized Indian Tribes are listed in the **Federal Register** document published by the BIA on March 13, 2000 (65 FR 13298). Only one grant proposal may be submitted by each Tribe or Tribal Consortia under this notice. However, the grant proposal may include outreach activities, baseline assessment activities, or both. There are no requirements for matching funding under this grant program. There is no requirement that a Tribe provide documentation that it meets the treatment in a manner similar to a State (TAS) standard.

C. Activities to be Funded

EPA will provide financial assistance in the form of grants to Indian Tribes or Tribal Consortia to conduct any or all of the following activities:

1. *Outreach (educational) activities.* EPA will provide financial assistance in the form of grants to Indian Tribes or Tribal Consortia to develop and conduct organized outreach efforts to educate Tribal families about the dangers to children from exposure to lead-based paint hazards, distribute educational information, and encourage Tribal families to have their children screened for lead poisoning and have their homes tested for lead hazards. Activities may include, but are not limited to, training medical professionals, developing culturally specific lead outreach materials, distributing pamphlets, and establishing an in-home education program to visit the homes of young Tribal children.

Tribes may develop their own outreach materials; however, the use and reproduction of pre-existing products is strongly encouraged and preferred. EPA is aware that many State, Tribal, and local departments of health and environmental protection, as well as advocacy groups and community development groups, have developed useful lead poisoning prevention materials to conduct outreach and awareness (educational) activities. EPA and other Federal agencies have developed, and currently provide, a wide range of outreach materials available from the National Lead Information Center (1–800–424–LEAD). Trained specialists at the Center can help identify specific types of lead awareness materials that already exist and thereby avoid spending the limited resources to recreate these materials. Grant funding may be used to duplicate existing lead outreach materials or to develop and implement a lead poisoning awareness and prevention program. Any new lead awareness materials developed must be consistent with the Federal (EPA, Department of Housing and Urban Development (HUD), and Centers for Disease Control and Prevention (CDC, formerly the Centers for Disease Control)) lead hazard awareness and poisoning prevention programs (www.epa.gov/lead, www.hud.gov/offices/lead/, and http://www.cdc.gov/nceh/lead/lead.htm) and receive approval from the appropriate EPA Regional Lead Contacts (see list of Regional Lead Contacts in Unit III.C.2.v.) prior to distribution.

2. *Baseline assessment activities*—i. *Conduct blood-lead screening of Tribal children age 6 years and under.* For blood-lead screening activities, the focus should be on Tribal children between the ages of 12–36 months because blood-lead levels tend to be highest in this age group, and more children in this age group tend to have blood-lead levels >10 (micrograms/deciliter (µg/dL). The CDC's recommended level of concern that encourages followup activities is 10 µg/dL, with specific actions/interventions recommended at various elevated blood-lead levels. All blood-lead samples collected from Tribal children must be analyzed using a Clinical Laboratory Improvement Amendments (CLIA)-certified laboratory. Portable, hand-held blood-lead analyzers may be used, but must be operated by a laboratory that is CLIA certified for moderately complex analysis. CLIA, published in 1992 (42 CFR part 405), is administered by the Centers for Medicare and Medicaid Services (CMS, formerly the Health Care Finance Administration). CLIA-certified laboratories must successfully participate in a testing proficiency program that is CLIA approved. Information regarding CLIA may be downloaded from the CMS web site at http://www.cms.gov/clia/.

ii. *Conduct inspections and risk assessments of pre-1978 Tribal housing and/or child occupied facilities for lead-based paint hazards.* (Housing and facilities may be owned or occupied by Tribal members.) This includes collection and analysis of paint, dust, and soil samples for hazardous lead levels. Inspections and risk assessments may only be conducted by individuals certified by EPA for Indian country in the EPA Region where the Tribe is located or certified by the recipient Tribe if the Tribe has received EPA program authorization. Inspections and risk assessments must be conducted according to the work practice standards found in 40 CFR 745.227 or those of the authorized Tribal program. Analysis of paint, dust, and soil samples must be conducted by a National Lead Laboratory Accreditation Program (NLLAP) recognized laboratory. EPA has established the NLLAP to recognize laboratories that demonstrate the ability to analyze paint chip, dust, or soil samples for lead. NLLAP provides the public with a list of laboratories that have met EPA requirements and demonstrated the capability to accurately analyze paint chip, dust, or soil samples for lead. A current list of NLLAP-recognized laboratories can be obtained by calling the National Lead Information Center at 1–800–424–LEAD.

iii. *Train workers to perform lead inspections and risk assessments.* Grant funds may be used for initial, refresher, or any other training and/or third party testing required to obtain certification (as discussed in Unit III.C.2.ii.) to perform lead-based paint inspections and risk assessments. Grant funds cannot be used to pay for any administrative fees for certification to conduct lead inspections and/or risk assessments.

iv. *Compile and summarize demographic data collected from activities listed in Unit III.C.2.i–iii.* In order for Tribes to qualify for other Federal funds for lead activities, sufficient data needs to be compiled and well organized. It is strongly

recommended that Tribes develop or use an existing data management system (manual or automated) to collect and maintain the data collected during the project, including laboratory results and data on followup cases for Tribal children with elevated blood-lead levels. This information may be essential in determining if Tribes have the capacity for a Tribal lead program (40 CFR 745.324) and are eligible for other Federal funding for lead activities. (An existing Tribal tracking system, Tribal Relational Environmental Numeric Health Database System or (TRENHDS), may be viewed or downloaded from http://www.bluejaydata.com/trenhds.) It is recommended that the data include: Tribe or Tribal Consortium name and location; an identifier that protects the privacy of the child; age of housing in which the child resides; age of the child (in months); gender; sample media (blood, soil, dust, or paint); date of sample collection; method of sample collection (for blood samples indicate whether method was capillary or venous); laboratory analysis method and date; the levels of lead in blood (in micrograms per deciliter (µg/dL)); soil (in micrograms per gram (µg/g)); dust (in micrograms per square foot (µg/ft^2)); and paint (in micrograms per gram (µg/g) or milligrams per centimeter square (mg/cm^2)); the number of homes and/or child-occupied facilities where risk assessments or inspections were conducted; the number of paint, dust, and soil samples collected; and possible exposure routes from other sources (such as hobby materials, pottery, parent occupational exposure, special native foods, medications, etc.) for each Tribal child screened.

v. *Quality assurance.* All environmental or health-related measurements or data generation must adequately address the requirements of 40 CFR 31.45 relating to quality assurance/quality control. Information on EPA quality assurance requirements may be downloaded from the EPA Quality Staff web site at www.epa.gov/quality. To begin the process of developing the quality assurance documentation, a quality assurance project plan template has been developed that may be helpful to use as a guide. The template may be downloaded from the EPA/OPPT web site at www.epa.gov/lead/new.htm. For further guidance on preparation of the quality documentation and specific EPA Regional Office approval requirements, please contact the appropriate EPA Regional Lead Contact listed in this unit.

Region I: (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), Regional Contact—James M. Bryson, USEPA Region I, One Congress St., Suite 1100 (CPT), Boston, MA 02114–0203. Telephone number: (617) 918–1524.

Region II: (New Jersey, New York, Puerto Rico, and the Virgin Islands), Regional Contact—Lou Bevilacqua, USEPA Region II, MS–225, 2890 Woodbridge Ave., Edison, NJ 08837. Telephone number: (732) 321–6671.

Region III: (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, and the District of Columbia), Regional Contact—Roberta Riccio, USEPA Region III (3WC33), 1650 Arch St., Philadelphia, PA 19103–2029. Telephone number: (215) 814–3107.

Region IV: (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), Regional Contact—Rose Anne Rudd, USEPA Region IV, 61 Forsyth St., SW., Atlanta, GA 30303. Telephone number: (404) 562–8998.

Region V: (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin), Regional Contact—David Turpin, USEPA Region V (DT–8J), 77 W. Jackson Blvd., Chicago, IL 60604. Telephone number: (312) 886–7836.

Region VI: (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas), Regional Contact—Brian Burgess, USEPA Region VI, 1445 Ross Ave., 12th Floor (6MD–RP), Dallas, TX 75202. Telephone number: (214) 665–7534.

Region VII: (Iowa, Kansas, Missouri, and Nebraska), Regional Contact—Margaret Stockdale, USEPA Region VII, ARTD/RALI, 901 North 5th, Kansas City, KS 66101. Telephone number: (913) 551–7936.

Region VIII: (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming), Regional Contact—David Combs, USEPA Region VIII, 999 18th St., Suite 300, Denver, CO 80202. Telephone number: (303) 312–6021.

Region IX: (Arizona, California, Hawaii, Nevada, American Samoa, and Guam), Regional Contact—Mary Aycock, USEPA Region IX (CMD–4), 75 Hawthorne St., San Francisco, CA 94105. Telephone number: (415) 947–4169.

Region X: (Alaska, Idaho, Oregon, and Washington), Regional Contact—Barbara Ross, USEPA Region X, Solid Waste and Toxics Unit (WCM–128), 1200 Sixth Ave., Seattle, WA 98101. Telephone number: (206) 553–1985.

D. Travel to Conferences

Grant funds may be used to support travel expenses and attendance of key Tribal lead program personnel at EPA Regional and National Lead conferences.

E. Project Duration

Projects are expected to be completed within 2 years of award of the grant.

F. Ineligible Costs

Examples of ineligible costs under this grant, include the following:

1. Buying real property, such as land or buildings.

2. Lead hazard reduction activities, such as performing interim controls or abatement (as defined in 40 CFR 745.223).

3. Construction activities, such as renovation, remodeling, or building a structure.

4. Office equipment that costs more than 10% of the amount of the grant, such as a copying machine or a color printer.

5. Analysis equipment in excess of 10% of the amount of the grant.

6. Lead-based paint certification fees for individuals and firms.

7. Contractor support in excess of 25% of the amount of the grant award, except where contract services include blood-lead analysis, training, and/or lead-based paint inspections and risk assessments.

8. Duplication of any lead-related activities that have been previously funded by EPA, or other Federal Government sources.

9. Case-management costs, including treatment for Tribal children with elevated blood-lead levels (e.g., followup visits by a doctor or chelation therapy).

EPA is extremely interested in knowing what actions Tribes plan to follow regarding monitoring, education, and/or treatment for children whose blood-lead levels are determined to be elevated (>10 µg/dL) while screened under this grant. It is important that the children who are found to have elevated blood-lead levels are treated. A description of specific steps and related information for followup activities must be included in the work plan section of the grant proposal.

G. Grant Proposal Requirements

Submit one original and three double-sided copies of the grant proposal, including a return mailing address. Grant proposals must be unbound, stapled, or clipped in the upper left-hand corner, on white paper, and with page numbers. The deadline for EPA's receipt of grant proposals is March 14, 2003. If the Tribe has conducted, or is currently working on a related project(s), a brief description of those projects, funding sources, primary commitments, and an indication as to whether those commitments were met must be included in the grant proposal. The description must also indicate how the proposed project is different from other funded work conducted by the Tribe(s) or unfunded work conducted by another entity (e.g., Indian Health Service, Superfund), and how the proposed project will not duplicate previous or on-going projects. It is important to note that funds cannot be

awarded to conduct activities which have been previously funded through any other Federal grant program.

Grant proposals should be clearly marked to indicate any information that is to be considered confidential. EPA will make final confidentiality decisions in accordance with Agency regulations in 40 CFR part 2, subpart B. All initial grant proposals received under this notice are subject to the dispute resolution process defined at 40 CFR 30.63 and part 31, subpart F.

This notice is one of two EPA notices that announce the availability of funds to conduct various lead-based paint activities. The second notice, which was published in the **Federal Register** issue of September 18, 2002 (67 FR 58788) (FRL–7191–8), Solicitation of Applications for Lead-Based Paint Program Grants; Notice of Availability of Funds, announces the availability of the lead-based paint section 404(g) lead grant program. Although a Tribe may apply to receive grant funding from both notices, they each have very distinct objectives. The grant program opportunities described in this notice may serve as a precursor to, but not as an equivalent or supplement to, the section 404(g) lead-based paint grant program. The section 404(g) lead-based paint grant program involves infrastructure development for the anticipated implementation of a lead-based paint training and certification program and does not include the activities (testing for lead in blood, paint, dust, or soil samples, or the general outreach and education activities) listed in this notice. Tribes may determine from the sample results and data interpretation that they obtain from the grant program described in this notice, that they have a need to develop a lead-based paint grant program and may apply for section 404(g) grant funds. Alternatively, a Tribe may decide that it is not in their best interest to pursue such a training and certification oversight program. Tribes or Tribal Consortia with an EPA-approved lead-based paint program may become eligible for other Federal funding opportunities for lead activities.

H. Work Plan

To be considered for selection under this grant program, grant proposals must include a completed work plan as described in this unit. Tribes may elect to submit a grant proposal for outreach and/or baseline assessment activities. However, only one grant proposal will be accepted from each Tribe or Tribal Consortia in response to this notice. The work plan must describe the proposed project. The work plan must be 4–6 typed pages in length (excluding appendices). One page is one side of a single-spaced typed page. The pages must be letter size (10 or 12 characters per inch (cpi)) and must have margins that are at least 1 inch. The format for the work plan must be organized and outlined as follows:

Section I. Work Plan for Educational Outreach Grant Proposal

A. Title of Project, Table of Contents, and Summary

B. Outreach (Educational) Activities

This section should include, but not be limited to, the following items/activities: Purpose, goal, and scope of the project; types of lead educational material that will be used and/or reproduced; types, if any, of lead educational materials that will be developed; distribution and delivery plans; and percentage estimate of the number of Tribal families who will receive the lead awareness information. The grant proposal must include a statement which describes how the effectiveness of the project will be determined.

C. Project Management

Include a description of staff positions, roles, and responsibilities, a description of experience in or potential to conduct activities described in B; efforts of partnership and collaboration with other local-health agencies, extent of contractor support, schedule and/or a time line showing the major activities and estimated time frames for initiation and completion, and a budget summary.

D. Budget

Provide a reasonable budget that is clearly identifiable with work plan activities.

E. Appendices

The appendices must be no more than 10 pages total and follow the same paging and spacing description as provided in this outline.

i. Resumes of key personnel (also include title, description, and reference name with phone number for work on previous or current grants or contracts within the last 5 years).

ii. Letters of support from Tribal representatives for Tribal Consortia. For individual Tribes, include a letter or resolution from Tribal Council or Chairperson showing support for and commitment to the project. (If it is not possible to obtain a letter/resolution from the Tribal Council or Chairperson to submit with your application, an interim letter of explanation must be included with the application.) The letter/resolution will still be required prior to award of the grant.

iii. Detailed information on other lead-based paint or lead-related activities conducted by the Tribe or Tribal Consortium.

Section II. Work Plan for Baseline Assessment Grant Proposal

A. Title of Project, Table of Contents, and Summary

B. Baseline Assessment Activities

This section should include the purpose, goal, and approach of the project. This section should also include a discussion of the separate phases of the project; the criteria for selecting properties to be inspected and/or to have risk assessments performed and children screened; methods to be used for data collection and quality control; and training and certification of individuals to perform lead-based paint evaluation activities. The grant proposal must include a statement which describes how the effectiveness of the project will be determined.

C. Project Management

Include a description of staff positions, roles, and responsibilities, a description of experience in or potential to conduct activities described in section B.; efforts of partnership and collaboration with other local-health agencies, extent of contractor support, schedule and/or time line showing the major activities and estimated time frames for initiation and completion, and a budget summary.

D. Budget

Provide a reasonable budget that is clearly identifiable with work plan activities.

E. Appendices

The appendices must be no more than 10 pages total and follow the same paging and spacing description as provided in this outline.

i. Resumes of key personnel (also include title, description, and reference name with phone number for work on previous or current grants or contracts with the Federal Government within the last 5 years).

ii. Letters of support from Tribal representatives for Tribal Consortia. For individual Tribes, include a letter or resolution from Tribal Council or Chairperson showing support for and commitment to the project. (If it is not possible to obtain a letter/resolution from the Tribal Council or Chairperson to submit with your application, an interim letter of explanation must be included with the application.) The letter/resolution will still be required prior to award of the grant.

iii. Detailed information on other lead-based paint or lead-related activities (if applicable).

I. Funding

Applicants may receive grants of up to $50,000 for an outreach (education) project, $75,000 for baseline assessment activities, and $125,000 for a combined grant proposal for both outreach (education) and baseline assessment activities. A separate budget breakdown is required to indicate outreach and baseline assessment funds in combined grant proposals.

Final distribution of the funds will be dependent upon the number of qualified applicants, Tribal populations served by each grant, and other factors, as deemed appropriate by EPA (i.e., the evaluation criteria as stated in Unit III.K.). Tribes may use a portion of the grant funds for contractor support for these activities; however, contractor support may not account for more than 25% of the amount of the grant, except where contract services include blood-lead analysis, training, and/or lead-based paint inspections and risk assessments).

J. Post Award Requirements

EPA's quality assurance requirements must be complied with before any environmental or health-related measurements or data are initiated under this grant. These requirements are addressed in 40 CFR 31.45 relating to quality assurance/quality control. Information on EPA quality assurance requirements may be downloaded from the EPA Quality Staff web site at www.epa.gov/quality. For further guidance on preparation of the quality documentation, and specific EPA Regional approval requirements, please contact the appropriate EPA Regional Lead Contact as listed in Unit III.C.2.v.

The grantee must provide EPA with written progress reports within 30 days of the end of each quarter and a report at the end of the project period.

K. Evaluation Criteria

EPA will review all proposals for quality, strength, and completeness against the following criteria. The Agency will use the proposals to select projects to be funded under this grant program. EPA reserves the right to reject all proposals and make no awards. The lead outreach (educational) awareness and baseline assessment activities grant proposals will be reviewed and evaluated separately. The maximum rating score for each grant proposal will be 105 points (five bonus points for in-kind services). Based upon the evaluation results, a Tribe or Tribal Consortium that submits grant proposals for both the lead outreach (educational) awareness and baseline assessment may receive a grant for one or both activities.

1. *Lead outreach (educational) grant proposal criteria*—i. *General (20 points).* The overall description of implementing the Tribal lead outreach (educational) awareness program in the proposal must address the goals of this notice of funding availability as detailed in Unit III.A. It must include reasonable and attainable goals and an approach that is clearly detailed. The proposal must describe the method that will be used to determine the effectiveness of the project. The proposal must provide detailed information on all lead-based paint or lead-related outreach/educational activities for which the Tribe has received funding from any Federal, State, or local government.

ii. *Outreach activities (40 points).* The grant proposal should fully describe the proposed educational outreach efforts for Tribal Indian communities. The messages in the grant proposal should be consistent with EPA/HUD/CDC lead-based paint program policies, guidelines, regulations, and recommendations. The following elements will be specifically evaluated:

- Types of existing lead educational material to be used and/or reproduced (i.e., reports, pamphlets, brochures, video tapes, CD ROMs, etc.); types, if any, of lead awareness (educational) outreach materials that will be developed.
- Method of distribution of materials throughout the Tribal population.
- How the messages will be delivered, e.g., lecture, written material distribution, one-on-one interviews.
- Printing, special video taping, advertising (billboards, posters, flyers), collaboration with radio or television, or other methods used to reach the Tribal Indian population regarding the outreach effort.
- Percentage estimate of the number of Tribal families who will receive the lead awareness information; efforts that will be employed to target hard-to-reach Tribal communities to inform families about childhood lead poisoning and screening, if applicable; the number of people/families/medical personnel/etc., who will be reached.
- An indication as to whether the proposed outreach materials and activities are suitable for the target audience (i.e., appropriate language comprehension and cultural identification).

iii. *Project management (30 points).* The grant proposal should describe the staff positions, roles, and responsibilities, and their qualifications. The following elements will also be evaluated: Resumes of key personnel; Tribal experience in or potential to conduct activities such as those described in the ''Outreach Activities'' section; previous experience managing similar projects; and availability of references; access to properly trained staff and facilities to conduct the project; schedule for completing the project; and the extent of activities to be performed by a contractor.

iv. *Budget (10 points plus 5 bonus points).* The evaluation will be based on the extent to which the proposed budget is reasonable, clear, and consistent with the intended use of the funds. Although matching funds are not required, up to five bonus points will be given to grant proposals indicating financial contributions and/or in-kind services provided to the project.

2. *Baseline assessment proposal criteria*—i. *General (20 points).* The overall description of the Tribal lead baseline assessment program will be evaluated. The grant proposal must address the goals of this notice as detailed in Unit III.A. It must include reasonable and attainable goals and an approach that is clearly detailed. The proposal must include a statement which describes how the effectiveness of the project will be determined. The grant proposal must provide detailed information on all lead-based paint or lead-related activities for which the Tribe has received funding from any Federal, State, or local government.

ii. *Baseline assessment activities (40 points)*

- *Blood-lead screening activities.* The grant proposal will be evaluated on the description of the sampling, collection, handling, and analysis activities; the data collection and tracking system, quality control measures; the description of the facility/facilities where the blood-lead sampling will occur (i.e., school, library, health department facility, clinic, private building, mobile van, etc.); and the estimated number and a percentage estimate of the number of Tribal children to be screened in the project. The evaluation will also be based on the description of the method that will be used to solicit maximum participation of Tribal children; the methods, (i.e., printing, video taping, collaboration with radio or television, etc.) to be used to reach the Indian population regarding the blood-lead screening effort; efforts to be used to ensure patient confidentiality; and a description of how the CLIA standards will be met.
- *Inspection/risk assessment of Tribal housing.* The proposal will be evaluated on the description of residential/child occupied properties that will undergo lead-based paint inspection and/or risk assessment; the selection criteria used to identify the properties; the description of methods used to reach Tribal population regarding lead paint inspections and/or risk assessment efforts; the description of inspection, risk assessment, and sampling and analysis procedures; the qualifications of inspection personnel; and the description of reporting procedures. All inspections and risk assessments must be conducted according to the work practice standards

found in 40 CFR 745.227 or those of an authorized Tribal program.

- *Paint, dust, and soil testing.* The grant proposal evaluation will be based on the description of the sampling, collection, handling, and analysis activities; the description of the data that will be collected, tracked, and reported to EPA; the quality control measures implemented, and a description of how NLLAP-recognized laboratories will be used for analysis.
- *Training.* Use of EPA accredited training providers or training providers approved by an EPA authorized state or Tribe for risk assessments and inspections and use of inspectors and/or risk assessors certified by EPA or by an EPA authorized State or Tribe.

iii. *Project management (30 points).* The grant proposal will be evaluated based on the description of the staff positions, roles and responsibilities, and their qualifications. The following elements will also be evaluated: Resumes of key personnel; Tribal experience in or potential to conduct activities such as those described in the ''Inspection/Risk Assessment of Tribal Housing,'' and ''Paint, Dust, and Soil Testing'' sections; previous experience managing similar projects; and availability of references; access to properly trained staff and facilities to conduct the project; schedule for completing the project; and the extent of activities to be performed by a contractor.

iv. *Budget (10 points plus 5 bonus points).* The evaluation will be based on the extent to which the proposed budget is reasonable, clear, and consistent with the intended use of the funds. Although matching funds are not required, up to five bonus points will be given to grant proposals indicating financial contributions and/or in-kind services provided to the project.

IV. Statutory Authority and Regulation

Section 10 of the Toxic Substances Control Act (TSCA), as supplemented by Public Law No. 106–74, authorizes EPA to award grants for the purpose of conducting research, development, monitoring, education, training, demonstrations, and studies necessary to carry out the purposes of the Act. Presently, these funds are not eligible for use in a Performance Partnership Agreement. The Catalog of Federal Domestic Assistance (CFDA) Number is 66.715 (Childhood Blood-Lead Screening and Lead Awareness Outreach for Indian Tribes). Executive Order 12372, Intergovernmental Review of Federal Programs does not apply to this assistance program since grant proposals will be submitted in lieu of comments on developing this program.

V. Submission to Congress and the Comptroller General

Grant solicitations such as this are considered rules for the purpose of the Congressional Review Act (CRA). The CRA, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** This is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

Environmental protection, Grants-Indians, Indians, Lead, Maternal and child health.

Dated: December 19, 2002.

Margaret Schneider,

Acting Director, Office of Pollution Prevention and Toxics.

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–7438–2]

Water Quality Trading Policy; Issuance of Final Policy

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: On May 15, 2002, the U.S. Environmental Protection Agency (EPA) invited public comment on its proposed Water Quality Trading Policy (''proposed policy''). Comments from the public were received through July 15, 2002. Public comments were reviewed by EPA and revisions were made to the proposed policy. Today's notice announces availability of EPA's final Water Quality Trading Policy. The final policy describes ways that water quality trading programs may be aligned with the Clean Water Act and implementing regulations, and describes elements of environmentally sound trading programs. Water quality trading is a voluntary, incentive-based approach that can offer greater efficiency in restoring or protecting water bodies. Trading allows a source to meet its regulatory obligations by using pollutant reductions created by another party with lower pollution control costs. EPA's final Water Quality Trading Policy offers guidance to states and tribes on developing and implementing water quality trading programs.

SUPPLEMENTARY INFORMATION:

I. General Information

A. How Can I Get Copies of This Document and Other Related Information?

1. Docket. EPA has established an official public docket for this action under Docket ID Number OW–2002–0016. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. The official public docket is the collection of materials that is available for public viewing at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

2. Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in A.1.

Access to the Water Quality Trading Policy is also available electronically at EPA's trading Web site *http://www.epa.gov/owow/watershed/trading.htm.*

B. Text of Water Quality Trading Policy

I. Background and Purpose of the Policy

The Clean Water Act (CWA) [1] was enacted in 1972 to restore and maintain the chemical, physical, and biological integrity of the nation's waters. It established a national policy that called for the discharge of pollutants to be eliminated and established interim goals for protecting fish, wildlife and recreational uses. The CWA also established a national policy for development and implementation of programs so the goals of the Act could be met through controls of point and nonpoint sources of pollution. Congress recognized and preserved the primary responsibilities and rights of the States to prevent, reduce and eliminate pollution.

The application of technology and water quality based requirements through the National Pollutant Discharge Elimination System (NPDES) permit program has achieved and remains critical to success in controlling point source pollution and restoring the nation's waters. Despite these accomplishments approximately 40% of the rivers, 45% of the streams and 50% of the lakes that have been assessed still do not support their designated uses [2]. Sources of pollution such as urban storm water, agricultural runoff and atmospheric deposition continue to threaten our nation's waters. Nutrient and sediment loading from agriculture and storm water are significant contributors to water quality problems such as hypoxia in the Gulf of Mexico and decreased fish populations in Chesapeake Bay. Population growth and development place increasing demands on the environment making it more difficult to achieve and maintain water quality standards.

Finding solutions to these complex water quality problems requires innovative approaches that are aligned with core water programs. Water quality trading is an approach that offers greater efficiency in achieving water quality goals on a watershed basis. It allows one source to meet its regulatory obligations by using pollutant reductions created by another source that has lower pollution control costs. Trading capitalizes on economies of scale and the control cost differentials among and between sources.

The United States Environmental Protection Agency (EPA) believes that market-based approaches such as water quality trading provide greater flexibility and have potential to achieve water quality and environmental benefits greater than would otherwise be achieved under more traditional regulatory approaches. Market-based programs can achieve water quality goals at a substantial economic savings. EPA estimates that in 1997 annual private point source control costs were about $14 billion and public point source costs were about $34 billion.[3] The National Cost to Implement Total Maximum Daily Loads (TMDLs) Draft Report estimates that flexible approaches to improving water quality could save $900 million dollars annually compared to the least flexible approach. (EPA, August 2001). Nitrogen trading among publicly owned treatment works in Connecticut that discharge into Long Island Sound is expected to achieve the required reductions under a TMDL while saving over $200 million dollars in control costs.

Market-based approaches can also create economic incentives for innovation, emerging technology, voluntary pollution reductions and greater efficiency in improving the quality of the nation's waters.

The purpose of this policy is to encourage states, interstate agencies and tribes to develop and implement water quality trading programs for nutrients, sediments and other pollutants where opportunities exist to achieve water quality improvements at reduced costs. More specifically, the policy is intended to encourage voluntary trading programs that facilitate implementation of TMDLs, reduce the costs of compliance with CWA regulations, establish incentives for voluntary reductions and promote watershed-based initiatives. A number of states are in various stages of developing trading programs. This policy provides guidance for states, interstate agencies and tribes to assist them in developing and implementing such programs.

This policy addresses issues left open by and limitations encountered implementing projects and programs under EPA's January 1996 Effluent Trading In Watersheds Policy and May 1996 Draft Framework for Watershed-Based Trading (''Draft Framework''). This policy should be given precedence over any inconsistencies with the Draft Framework.

This policy draws upon lessons from a number of recent pilot trading projects and state experiences in developing water quality trading programs. These initiatives demonstrate how trading can occur under the CWA and existing federal regulations. They illustrate the importance of voluntary watershed-based partnerships, inter-agency cooperation and public participation in implementation of trading programs. They show that flexible market-based approaches can facilitate states and tribes finding solutions to complex and diverse water quality and socioeconomic issues. These efforts have also highlighted the importance of keeping transaction and administrative costs manageable while retaining accountability. The lessons learned from these efforts have informed the development of this policy.

This policy describes various requirements of the CWA and implementing regulations that are relevant to water quality trading, including: requirements to obtain permits (Sections 402 and 404), antibacksliding provisions (Section 303(d)(4) and Section 402(o)), the development of water quality standards including antidegradation policy (Section 303(c)), federal NPDES permit regulations (40 CFR Parts 122, 123 and 124), TMDLs (Section 303d(1)) and water quality management plans (40 CFR Part 130). These CWA provisions and regulations contain legally binding requirements. This policy does not substitute for those provisions or requirements. In addition, this policy identifies general elements and provisions that EPA believes are important for creating credible water quality trading programs.

When EPA makes a decision with regard to any particular permit, TMDL, water quality standards or water quality management plan that includes provisions for trading to occur, it will make each decision on a case-by-case basis guided by the applicable requirements of the CWA and implementing regulations and the specific facts and circumstances involved.

II. Trading Objectives

EPA supports implementation of water quality trading by states, interstate agencies and tribes where trading:

A. Achieves early reductions and progress towards water quality standards pending development of TMDLs for impaired waters.

[1] Federal Water Pollution Control Act (Public Law 92–500, as amended), 33 U.S.C. Sec. 1251, *et seq.*

[2] About 33 percent of the nation's water have been assessed by States and tribes pursuant to Section 305(b) of the Clean Water Act (National Water Quality Inventory: 2000 Report, EPA). The proportion of non-assessed water that do not meet designated uses is likely lower since assessments tend to be focused in known problem areas.

[3] A Retrospective Assessment of the costs of the Clean Water Act: 1972–1977 (EPA, October, 2000).

B. Reduces the cost of implementing TMDLs through greater efficiency and flexible approaches.

C. Establishes economic incentives for voluntary pollutant reductions from point and nonpoint sources within a watershed.

D. Reduces the cost of compliance with water quality-based requirements.

E. Offsets new or increased discharges resulting from growth in order to maintain levels of water quality that support all designated uses.

F. Achieves greater environmental benefits than those under existing regulatory programs. EPA supports the creation of water quality trading credits in ways that achieve ancillary environmental benefits beyond the required reductions in specific pollutant loads, such as the creation and restoration of wetlands, floodplains and wildlife and/or waterfowl habitat.

G. Secures long-term improvements in water quality through the purchase and retirement of credits by any entity.

H. Combines ecological services to achieve multiple environmental and economic benefits, such as wetland restoration or the implementation of management practices that improve water quality and habitat.

III. Water Quality Trading Policy Statement

A. *CWA Requirements.* Water quality trading and other market-based programs must be consistent with the CWA.

B. *Trading Areas.* All water quality trading should occur within a watershed or a defined area for which a TMDL has been approved. Establishing defined trading areas that coincide with a watershed or TMDL boundary results in trades that affect the same water body or stream segment and helps ensure that water quality standards are maintained or achieved throughout the trading area and contiguous waters.

C. *Pollutants and Parameters Traded.* EPA supports trading that involves nutrients (*e.g.*, total phosphorus and total nitrogen) or sediment loads. In addition, EPA recognizes that trading of pollutants other than nutrients and sediments has the potential to improve water quality and achieve ancillary environmental benefits if trades and trading programs are properly designed. EPA believes that such trades may pose a higher level of risk and should receive a higher level of scrutiny to ensure that they are consistent with water quality standards. EPA may support trades that involve pollutants other than nutrients and sediments on a case-by-case basis where prior approval is provided through an NPDES permit, a TMDL or in the context of a watershed plan or pilot trading project that is supported by a state, tribe or EPA.

EPA also supports cross-pollutant trading for oxygen-related pollutants where adequate information exists to establish and correlate impacts on water quality. Reducing upstream nutrient levels to offset a downstream biochemical oxygen demand or to improve a depressed in-stream dissolved oxygen level are examples of cross-pollutant trading.

EPA does not currently support trading of pollutants considered by EPA to be persistent bioaccumulative toxics (PBTs). EPA would consider a limited number of pilot projects over the next two to three years to obtain more information regarding trading of PBTs. EPA believes pilot projects may be appropriate where the predominant loads do not come from point sources, trading achieves a substantial reduction of the PBT traded and where trading does not cause an exceedance of an aquatic life or human health criterion. Based on the findings of these pilot projects, EPA will consider making revisions to its policy.

Where state or tribal water quality standards allow for mixing zones, EPA does not support any trading activity that would exceed an acute aquatic life criteria within a mixing zone or a chronic aquatic life or human health criteria at the edge of a mixing zone using design flows specified in the water quality standards.

D. *Baselines for Water Quality Trading.* As explained below, the baselines for generating pollution reduction credits should be derived from and consistent with water quality standards. The term pollution reduction credits (''credits''), as used in this policy, means pollutant reductions greater than those required by a regulatory requirement or established under a TMDL.

For example, where a TMDL has been approved or established by EPA, the applicable point source waste load allocation or nonpoint source load allocation would establish the baselines for generating credits. For trades that occur where water quality fully supports designated uses, or in impaired waters prior to a TMDL being established, the baseline for point sources should be established by the applicable water quality based effluent limitation, a quantified performance requirement or a management practice derived from water quality standards. In these scenarios the baseline for nonpoint sources should be the level of pollutant load associated with existing land uses and management practices that comply with applicable state, local or tribal regulations.

E. When Trading May Occur

1. *Trading to Maintain Water Quality Standards.* Trading may be used to maintain high water quality in waters where water quality standards are attained, such as by compensating for new or increased discharges of pollutants.

2. *Pre-TMDL Trading In Impaired Waters.* EPA supports pre-TMDL trading in impaired waters to achieve progress towards or the attainment of water quality standards. EPA believes this may be accomplished by individual trades that achieve a net reduction of the pollutant traded or by watershed-scale trading programs that reduce loadings to a specified cap supported by baseline information on pollutant sources and loadings.

EPA also supports pre-TMDL trading that achieves a direct environmental benefit relevant to the conditions or causes of impairment to achieve progress towards restoring designated uses where reducing pollutant loads alone is not sufficient or as cost-effective.

If pre-TMDL trading does not result in the attainment of applicable water quality standards, EPA expects a TMDL to be developed. After a TMDL has been approved or established by EPA, the reductions made to generate credits for pre-TMDL trading may no longer be adequate to generate credits under the TMDL. This will depend on the remaining level of reduction needed to achieve water quality standards and, where applicable, the allocation of point and nonpoint source pollutant loads established by the TMDL.

3. *TMDL Trading.* Trades and trading programs in impaired waters for which a TMDL has been approved or established by EPA should be consistent with the assumptions and requirements upon which the TMDL is established. EPA encourages the inclusion of specific trading provisions in the TMDL itself, in NPDES permits, in watershed plans and the continuing planning process. EPA does not support any trading activity that would delay implementation of a TMDL approved or established by EPA or that would cause the combined point source and nonpoint source loadings to exceed the cap established by a TMDL.

4. *Technology-Based Trading.* EPA does not support trading to comply with existing technology-based effluent limitations except as expressly authorized by federal regulations. Existing technology-based effluent guidelines for the iron and steel

industry allow intraplant trading of conventional, nonconventional and toxic pollutants between outfalls under certain circumstances (40 CFR 420.03).

EPA will consider including provisions for trading in the development of new and revised technology-based effluent guidelines and other regulations to achieve technology-based requirements, reduce implementation costs and increase environmental benefits.

5. *Pretreatment Trading.* EPA supports a municipality or regional sewerage authority developing and implementing trading programs among industrial users that are consistent with the pretreatment regulatory requirements at 40 CFR Part 403 and the municipality's or authority's NPDES permit.

6. *Intra-Plant Trading.* EPA supports intra-plant trading that involves the generation and use of credits between multiple outfalls that discharge to the same receiving water from a single facility that has been issued an NPDES permit.

F. *Alignment With The CWA.* Provisions for water quality trading should be aligned with and incorporated into core water quality programs. EPA believes this may be done by including provisions for trading in water quality management plans, the continuing planning process, watershed plans, water quality standards, including antidegradation policy and, by incorporating provisions for trading into TMDLs and NPDES permits.

When developing water quality trades and trading programs, states and tribes should, at a minimum, take into account the following provisions of the CWA and implementing regulations:

1. *Requirements to Obtain Permits.* Sources and activities that are required to obtain a federal permit pursuant to Sections 402 or 404 of the CWA must do so to participate in a trade or trading program.

2. *Incorporating Provisions For Trading Into Permits.* In some cases, specific trades may be identified in NPDES permits, including requirements related to the control of nonpoint sources where appropriate. EPA also supports several flexible approaches for incorporating provisions for trading into NPDES permits: (i) General conditions in a permit that authorize trading and describe appropriate conditions and restrictions for trading to occur, (ii) the use of variable permit limits that may be adjusted up or down based on the quantity of credits generated or used; and/or, (iii) the use of alternate permit limits or conditions that establish restrictions on the amount of a point source's pollution reduction obligation that may be achieved by the use of credits if trading occurs. EPA also encourages the use of watershed general permits, where appropriate, to establish pollutant-specific limitations for a group of sources in the same or similar categories to achieve net pollutant reductions or water quality goals through trading. Watershed permits issued to point sources should include facility specific effluent limitations or other conditions that would apply in the event the pollutant cap established by the watershed permit is exceeded.

3. *Public Notice, Comment and Opportunity For Hearing.* Notice, comment and opportunity for hearing must be provided for all NPDES permits (40 CFR 124). NPDES permits and fact sheets should describe how baselines and conditions or limits for trading have been established and how they are consistent with water quality standards. EPA does not expect that an NPDES permit would need to be modified to incorporate an individual trade if that permit contains authorization and provisions for trading to occur and the public was given notice and an opportunity to comment and/or attend a public hearing at the time the permit was issued.

4. *Consistency With Standard Methods.* Where methods and procedures (*e.g.*, sampling protocols, monitoring frequencies) are specified by federal regulations or in NPDES permits, they should continue to be used where applicable for measuring compliance for point sources that engage in trading. EPA believes this is necessary to provide clear and consistent standards for measuring compliance and to ensure that appropriate enforcement action can be taken.

5. *Protecting Designated Uses.* EPA does not support any use of credits or trading activity that would cause an impairment of existing or designated uses, adversely affect water quality at an intake for drinking water supply or that would exceed a cap established under a TMDL.

6. *Antibacksliding.* EPA believes that the antibacksliding provisions of Section 303(d)(4) of the CWA will generally be satisfied where a point source increases its discharge through the use of credits in accordance with alternate or variable water quality based effluent limitations contained in an NPDES permit, in a manner consistent with provisions for trading under a TMDL, or consistent with the provisions for pre-TMDL trading included in a watershed plan.

These antibacksliding provisions will also generally be satisfied where a point source generates pollution reduction credits by reducing its discharge below a water quality based effluent limitation (WQBEL) that implements a TMDL or is otherwise established to meet water quality standards and it later decides to discontinue generating credits, provided that the total pollutant load to the receiving water is not increased, or is otherwise consistent with state or tribal antidegradation policy.

7. *Antidegradation.* Trading should be consistent with applicable water quality standards, including a state's and tribe's antidegradation policy established to maintain and protect existing instream water uses and the level of water quality necessary to support them, as well as high quality waters and outstanding national resource waters (40 CFR 131.12). EPA recommends that state or tribal antidegradation policies include provisions for trading to occur without requiring antidegradation review for high quality waters. EPA does not believe that trades and trading programs will result in ''lower water quality'' as that term is used in 40 CFR 131.12(a)(2), or that antidegradation review would be required under EPA's regulations when the trades or trading programs achieve a *no net increase* of the pollutant traded and do not result in any impairment of designated uses.

G. *Common Elements of Credible Trading Programs.* EPA believes that, in addition to including provisions to be consistent with the CWA, trading programs should include the following general elements to be credible and successful:

1. *Legal Authority and Mechanisms.* Clear legal authority and mechanisms are necessary for trading to occur. EPA believes the CWA provides authority for EPA, states and tribes to develop a variety of programs and activities to control pollution, including trading programs. The CWA and federal regulations provide authority to incorporate provisions for trading into NPDES permits issued to point sources and for trading under TMDLs that include provisions for trading to occur.

In addition, states and tribes should use specific legal mechanisms to facilitate trading. Provisions for trading may be established through various mechanisms, including: legislation, rule making, incorporating provisions for trading into NPDES permits and establishing provisions for trading in TMDLs or watershed plans. These provisions may incorporate or be supplemented by private contracts between sources or third-party contracts where the third party provides an indemnification or enforcement function.

2. *Units of Trade.* Clearly defined units of trade are necessary for trading to occur. Pollutant specific credits are examples of tradable units for water quality trading. These may be expressed in rates or mass per unit time as appropriate to be consistent with the time periods that are used to determine compliance with NPDES permit limitations or other regulatory requirements.

3. *Creation and Duration of Credits.* Credits should be generated before or during the same period they are used to comply with a monthly, seasonal or annual limitation or requirement specified in an NPDES permit. Credits may be generated as long as the pollution controls or management practices are functioning as expected.

4. *Quantifying Credits and Addressing Uncertainty.* Standardized protocols are necessary to quantify pollutant loads, load reductions, and credits. States and tribes should develop procedures to account for the generation and use of credits in NPDES permits and discharge monitoring reports in order to track the generation and use of credits between sources and assess compliance.

Where trading involves nonpoint sources, states and tribes should adopt methods to account for the greater uncertainty in estimates of nonpoint source loads and reductions. Greater uncertainty in nonpoint source estimates is due to several factors including but not limited to variability in precipitation, variable performance of land management practices, time lag between implementation of some practices and full performance, and the effect of soils, cover and slope on pollutant load delivery to receiving waters.

EPA supports a number of approaches to compensate for nonpoint source uncertainty. These include monitoring to verify load reductions, the use of greater than 1:1 trading ratios between nonpoint and point sources, using demonstrated performance values or conservative assumptions in estimating the effectiveness of nonpoint source management practices, using site- or trade-specific discount factors, and retiring a percentage of nonpoint source reductions for each transaction or a predetermined number of credits. Where appropriate, states and tribes may elect to establish a reserve pool of credits that would be available to compensate for unanticipated shortfalls in the quantity of credits that are actually generated.

The site-specific procedures and protocols used in water quality trading programs that involve agriculture and forestry operations should be developed by states and tribes in consultation with United States Department of Agriculture (USDA) agencies. Those procedures should estimate nutrient or sediment load delivery to the stream segment, water body or watershed where trading occurs. Numerous methods and procedures to determine nutrient and sediment load reductions associated with conservation practices on agricultural and forest land have been developed or used by the USDA agencies, including the Natural Resources Conservation Service, Forest Service, Agricultural Research Service and the Cooperative State, Research, Education and Extension Service. Some of these methods may be applied to water quality trading.

As an example, the Revised Universal Soil Loss Equation (RUSLE) may be used in some locations to estimate the sediment yield at the end of a slope in agricultural settings. The sediment yield at the end of a slope coupled with an appropriate method to estimate sediment delivery to the receiving waters can provide a reasonable estimate of sediment load and load reductions. Representative soil sampling to determine the phosphorus content of soils can be used with this approach to estimate non-soluble sediment-bound phosphorus loads and load reductions. Different methods are appropriate to estimate soluble phosphorus and nitrogen loads and load reductions.

EPA and the USDA are working with other agencies to evaluate existing methods and to develop improved methods and procedures for estimating loads from agricultural and forestry lands. More precise estimations will be possible as technologies improve and new technologies are developed. For storm water runoff other than agriculture, EPA recommends monitoring or modeling to estimate pollutant loads and load reductions. EPA believes this may be based on local hydrology and actual data or pollutant loading factors that relate land use patterns, percent imperviousness or percent disturbed land and controls or management practices in a watershed to per acre or per unit pollutant loads, where other methods are not specified in a permit or regulation.

5. *Compliance and Enforcement Provisions.* Mechanisms for determining and ensuring compliance are essential for all trades and trading programs. These may include a combination of record keeping, monitoring, reporting and inspections. Compliance audits should be conducted frequently enough to ensure that a high level of compliance is maintained across the program. States and tribes should establish clear enforceable mechanisms consistent with NPDES regulations that ensure legal accountability for the generation of credits that are traded. In the event of default by another source generating credits, an NPDES permittee using those credits is responsible for complying with the effluent limitations that would apply if the trade had not occurred. EPA also recommends that states and tribes consider providing periodic accounting and reconciliation periods and establishing appropriate enforcement provisions for failure to generate the quantity of credits that are traded.

EPA recommends that states and tribes consider the role of compliance history in determining source eligibility to participate in trading.

EPA recommends that states and tribes consider including provisions to address situations where nonpoint source controls and management practices that are implemented to generate credits fail due to extreme weather conditions or other circumstances that are beyond the control of the source.

6. *Public Participation And access to Information.* EPA supports public participation at the earliest stages and throughout the development of water quality trading programs to strengthen program effectiveness and credibility.

Easy and timely public access to information is necessary for markets to function efficiently and for the public to monitor trading activity. EPA encourages states and tribes to make electronically available to the public information on the sources that trade, the quantity of credits generated and used on a watershed basis, market prices where available, and delineations of watershed and trading boundaries. This information is necessary to identify potential trading opportunities, allow easy aggregation of credits, reduce transaction costs and establish public credibility.

7. *Program Evaluations.* Periodic assessments of environmental and economic effectiveness should be conducted and program revisions made as needed. Environmental evaluations should include ambient monitoring to ensure impairments of designated uses (including existing uses) do not occur and to document water quality conditions. Studies should be performed to quantify nonpoint source load reductions, validate nonpoint source pollutant removal efficiencies and determine whether the anticipated water quality objectives have been achieved. Economic evaluations should include the number and type of trades, the price paid for pollutant reduction credits, transaction costs, the costs

incurred to administer the program, and where possible any net cost savings resulting from trading.

The results of program evaluations should be made available to the public. An opportunity for comment should also be provided on changes to the program as necessary to ensure that water quality objectives and economic efficiencies are achieved, and that trading does not result in an impairment of designated uses (including existing uses).

I. *EPA's Oversight Role.* States and tribes are encouraged to consult with EPA throughout development of trading programs to facilitate alignment with the CWA. EPA has various oversight responsibilities under the CWA, including approval or establishment of TMDLs, approval of revisions to state or tribal water quality standards, review of NPDES permits and provisions for reviewing and making recommendations regarding revisions to a state's or tribe's water quality management plans through the continuing planning process. In general, EPA does not believe that the development and implementation by states and tribes of trading programs consistent with the provisions of this policy necessarily warrant a higher level of scrutiny under these oversight authorities than is appropriate for activities not involving trading. However, where questions or concerns arise, EPA will use its oversight authorities to ensure that trades and trading programs are fully consistent with the CWA and its implementing regulations.

FOR FURTHER INFORMATION CONTACT: David Batchelor, EPA Office of Water, 202–564–5764, *batchelor.david@epa.gov*, or Lynda Hall Wynn, EPA Office of Water, 202–564–0472, *wynn.lynda@epa.gov;* or Mahesh Podar, EPA Office of Water, 202–564–5778, *podar.mahesh@epa.gov.*

Dated: January 2, 2003.

G. Tracy Mehan, III,

Assistant Administrator, Office of Water.

[FR Doc. 03–620 Filed 1–10–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission

December 30, 2002.

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

DATES: Written comments should be submitted on or before March 14, 2003. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

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

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

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0395.

Title: The ARMIS USOA Report; the ARMIS Service Quality Report; and the ARMIS Infrastructure Report.

Report Nos: FCC Reports 43–02; 43–05; and 43–07.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 49.

Estimated Time Per Response: 483 hours.

Frequency of Response: Annual reporting requirements and recordkeeping requirement.

Total Annual Burden: 23,674 hours.

Total Annual Cost: N/A.

Needs and Uses: The USOA Report provides the annual results of the carriers' activities for each account of the Uniform System of Accounts. The Service Quality Report provides service quality information in the areas of interexchange access service, installation and repair intervals, local service installation and repair intervals, trunk blockage, and total switch downtime for price cap carriers. The Infrastructure Report provides switch deployment capabilities data. The Commission is revising this collection because they have completed an internal review of the reporting and recordkeeping requirements to streamline the collection and reduce public burden.

OMB Control No.: 3060–0496.

Title: The ARMIS Operating Data Report.

Report No.: FCC Report 43–08.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 53.

Estimated Time Per Response: 139 hours.

Frequency of Response: Annual reporting requirement and recordkeeping requirement.

Total Annual Burden: 7,349 hours.

Total Annual Cost: N/A.

Needs and Uses: The Operating Data Report collects annual statistical data in a consistent format that is essential for the Commission to monitor network growth, usage, and reliability. The Commission is revising this collection because they have completed an internal review of the reporting and recordkeeping requirements to streamline the collection and reduce public burden.

OMB Control No.: 3060–0511.

Title: ARMIS Access Report.

Report No.: FCC Report 43–04.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 84.

Estimated Time Per Response: 157 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 13,188 hours.

Total Annual Cost: N/A.

Needs and Uses: The Access Report is needed to administer the Commission's accounting, jurisdictional separations and access charge rules; to analyze revenue requirements and rates of return, and to collect financial data from Tier 1 incumbent local exchange carriers. The Commission is revising this collection because they have completed an internal review of the

reporting and recordkeeping requirements to streamline the collection and reduce public burden.

OMB Control No.: 3060–0512.

Title: The ARMIS Annual Summary Report.

Report No.: FCC Report 43–01.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 115.

Estimated Time Per Response: 93 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 10,695 hours.

Total Annual Cost: N/A.

Needs and Uses: The Annual Summary Report contains financial and operating data and is used to monitor the incumbent local exchange carrier industry and to perform routine analyses of costs and revenues on behalf of the Commission. The Commission is revising this collection because they have completed an internal review of the reporting and recordkeeping requirements to streamline the collection and reduce public burden.

OMB Control No.: 3060–0513.

Title: ARMIS Joint Cost Report.

Report No.: FCC Report 43–03.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 85.

Estimated Time Per Response: 76 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 6,460 hours.

Total Annual Cost: N/A.

Needs and Uses: The Joint Cost Report is needed to administer our joint cost rules (Part 64) and to analyze data in order to prevent cross-subsidization of non-regulated operations by the regulated operations of Tier 1 carriers. The Commission is revising this collection because they have completed an internal review of the reporting and recordkeeping requirements to streamline the collection and reduce public burden.

OMB Control No.: 3060–0763.

Title: The ARMIS Customer Satisfaction Report.

Report No.: FCC Report 43–06.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 7.

Estimated Time Per Response: 720 hours.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 5,040 hours.

Total Annual Cost: N/A.

Needs and Uses: The Customer Satisfaction Report reflects the results of customer satisfaction based on surveys conducted by individual carriers from their customers. The Commission is revising this collection because they have completed an internal review of the reporting and recordkeeping requirements to streamline the collection and reduce public burden.

OMB Control No.: 3060–0855.

Title: Telecommunications Reporting Worksheet, CC Docket No. 96–45.

Form Nos: FCC Forms 499, 499–A and 499–Q.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions.

Number of Respondents: 5,500 respondents; 15,500 responses.

Estimated Time Per Response: 11.5 hours.

Frequency of Response: On occasion, annual, quarterly, and one time reporting requirements, third party disclosure requirement and recordkeeping requirement.

Total Annual Burden: 164,487 hours.

Total Annual Cost: N/A.

Needs and Uses: Telecommunications carriers (and certain other providers of telecommunications services) must contribute to the support and cost recovery mechanisms for telecommunications relay services, numbering administration, number portability, and universal service. The Commission modified the existing methodology used to assess contributions that carriers make to the federal universal service support mechanisms. This will entail altering to the current revenue reporting requirements to which interstate telecommunications carriers are subject under Part 54 of the Commission's rules. The Office of Management and Budget (OMB) approved this information collection as an emergency request on 12/18/02. We are now extending the approval for this information collection and seeking the regular three-year approval.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–576 Filed 1–10–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

ACTION: Notice.

SUMMARY: Background: Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer –Cindy Ayouch—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829); OMB Desk Officer–Joseph Lackey—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Final Approval Under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Report:

Report title: Report of Terms of Credit Card Plans

Agency form number: FR 2572

OMB Control number: 7100–0239

Frequency: Semi–annual

Reporters: Financial institutions

Annual reporting hours: 75 hours

Estimated average hours per response: 0.25 hours

Number of respondents: 150

Small businesses are affected.

General description of report: This information collection is voluntary (15 U.S.C. §1646(b)) and is not given confidential treatment.

Abstract: This report collects data on credit card pricing and availability from a sample of at least 150 financial

institutions that offer credit cards to the general public. The information is reported to the Congress and made available to the public in order to promote competition within the industry. The Board publishes the information in a brochure titled ''SHOP: The Card You Pick Can Save You Money'' (SHOP), available through Publication Services at the Board and on the Board's public web site, www.federalreserve.gov/pubs/shop.

Board of Governors of the Federal Reserve System, January 7, 2003.

Jennifer J. Johnson

Secretary of the Board.

[FR Doc. 03–568 Filed 1–10–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank 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 office 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 January 27, 2003.

A. Federal Reserve Bank of Minneapolis (Richard M. Todd, Vice President and Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Sabina Bosshard, Winona, Minnesota, and William H. Bosshard, La Crosse, Wisconsin; to acquire shares of Clayton Bankshares, Inc., Clayton, Wisconsin, and thereby indirectly acquire shares of Citizens State Bank of Clayton, Clayton, Wisconsin.

Board of Governors of the Federal Reserve System, January 7, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–566 Filed 1–10–03; 8:45 am]

BILLING CODE 6210–01–S

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. Additional information on all bank holding companies may be obtained from the National Information Center website at www.ffiec.gov/nic/.

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 6, 2003.

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Mizuho Financial Group, Tokyo, Japan; become a bank holding company by acquiring Mizuho Holdings, Inc., Tokyo, Japan, and thereby indirectly acquire ownership in Mizuho Corporate Bank of California, Los Angeles, California; Mizuho Corporate Bank (USA), New York, New York, and Mizuho Trust & Banking Co. (USA), New York, New York.

In connection with this application, Mizuho Asset Trust & Banking Co., Ltd., Tokyo, Japan; has applied to acquire 100 percent of the voting shares of Mizuho Trust & Banking Co., Ltd. (USA), New York, New York, and Mizuho Trust & Banking Co., Ltd., Tokyo, Japan.

In connection with these applications, Applicant also has applied to acquire the nonbanking companies to Mizuho Holdings, Inc., including Mizuho Capital Markets Corporation, New York, New York; Mizuho Securities USA Inc., Hoboken, New Jersey; The Bridgeford Group (NY), Inc., New York, New York; DLIBJ Asset Management U.S.A., Inc., New York, New York, and Shinko Securities (USA), Inc., New York, New York, and thereby engage in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y; activities related to extending credit, pursuant to section 225.28(b)(2) of Regulation Y; providing leasing services, pursuant to section 225.28(b)(3) of Regulation Y; owning, controlling, or operating an industrial bank, pursuant to section 225.28(b)(4) of Regulation Y; performing trust company functions, pursuant to section 225.28(b)(5) of Regulation Y; providing investment and financial advisory services, pursuant to section 225.28(b)(6) of Regulation Y; providing securities brokerage, riskless principal, private placement, futures commission merchant, and other agency transactions services, pursuant to section 225.28(b)(7)(i)(v) of Regulation Y; underwriting and dealing in government obligations and money market instruments in which state member banks may underwrite and deal under 12 U.S.C. sections 335 and 24(7), and investing and trading activities, pursuant to section 225.28(b)(8)(i) and (ii) of Regulation Y; providing management consulting services, pursuant to section 225.28(b)(9) of Regulation Y; engaging in specific insurance agency activities through a subsidiary that engaged in such activities on May 1, 1982, pursuant to section 225.28(b)(11)(v) of Regulation Y; community development activities, pursuant to section 225.28(b)(12) of Regulation Y; and in data processing and transmission activities, pursuant to section 225.28(b)(14) of Regulation Y.

2. First Bancorp, San Juan, Puerto Rico; to acquire up to 9.9 percent of the common stock of PanAmerican Bancorp, Hollywood, Florida, and thereby indirectly acquire voting shares of PanAmerican Bank, Hollywood, Florida.

B. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Amtrust, Inc., Dubuque, Iowa; to acquire 9.9 percent of the voting shares of United American Bank, San Mateo, California, a *de novo* bank in organization.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Bank of Mulberry Employee Stock Ownership Trust, Mulberry, Arkansas, and its subsidiary, ACME Holding Company, Inc., Mulberry, Arkansas, to acquire 81.65 percent of the voting shares of Madison Corporation, Little Rock, Arkansas, and thereby indirectly acquire voting shares of Madison Bank & Trust Company, Kingston, Arkansas.

E. Federal Reserve Bank of Minneapolis (Richard M. Todd, Vice President and Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Finlayson Bancshares, Inc., Finlayson, Minnesota; to acquire 100 percent of the voting shares of Floodwood Agency, Inc., Duluth, Minnesota, and thereby indirectly acquire voting shares of First State Bank of Floodwood, Floodwood, Minnesota.

Board of Governors of the Federal Reserve System, January 7, 2003.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 03–567 Filed 1–10–03; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–34]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210.

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. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Project: School Associated Violent Death Surveillance System—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC). The Division of Violence Prevention (DVP), National Center for Injury Prevention and Control (NCIPC) proposes to develop a system for the surveillance of school-associated homicides and suicides. The system will rely on existing public records and interviews with law enforcement officials and school officials. The purpose of the system is to (1) estimate the rate of school-associated violent death in the United States and (2) identify common features of school-associated violent deaths. The proposed system will contribute to the understanding of fatal violence associated with schools, guide further research in the area, and help direct ongoing and future prevention programs.

Violence is the leading cause of death among young people, and increasingly recognized as an important public health and social issue. In 1998, over 3,500 school aged children (5 to 18 years old) in the United States died violent deaths due to suicide, homicide, and unintentional firearm injuries. The vast majority of these fatal injuries were not school associated. However, whenever a homicide or suicide occurs in or around school, it becomes a matter of particularly intense public interest and concern. NCIPC conducted the first scientific study of school-associated violent deaths during the 1992–99 academic years to establish the true extent of this highly visible problem.

Despite the important role of schools as a setting for violence research and prevention interventions, relatively little scientific or systematic work has been done to describe the nature and level of fatal violence associated with schools. Until NCIPC conducted the first nationwide investigation of violent deaths associated with schools, public health and education officials had to rely on limited local studies and estimated numbers to describe the extent of school-associated violent death.

The proposed system will draw cases from the entire United States in attempting to capture all cases of school-associated violent deaths that have occurred. Investigators will review public records and published press reports concerning each school-associated violent death. For each identified case, investigators will also interview an investigating law enforcement official (defined as a police officer, police chief, or district attorney), and a school official (defined as a school principal, school superintendent, school counselor, school teacher, or school support staff) who are knowledgeable about the case in question. Researchers will request information on both the victim and alleged offender(s)—including demographic data, their academic and criminal records, and their relationship to one another. They will also collect data on the time and location of the death; the circumstances, motive, and method of the fatal injury; and the security and violence prevention activities in the school and community where the death occurred, before and after the fatal injury event. There are no costs to the respondents.

Respondents	Number of respondents	Number of responses/respondent	Avg. burden/response (in hrs.)	Total annual burden (in hrs.)
School Officials	35	1	1	35
Police Officials	35	1	1	35
Total				70

Dated: January 3, 2003.

Nancy E. Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–645 Filed 1–10–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Refugee State-of-Origin Report ORR–11.

OMB No.: 0970–0043.

Description: The information collection of the ORR–11 (Refugee State-of-Origin Report) is designed to satisfy the statutory requirements of the Immigration and Nationality Act. Section 412(a)(3) of the Act requires ORR to compile and maintain data on the secondary migration of refugees within the United States after arrival.

In order to meet this legislative requirement, ORR requires each State to submit an annual count of the number of refugees who were initially resettled in another State. The State does this by counting the number of refugees with social security numbers indicating residence in another State at the time of arrival in the U.S. (The first three digits of the social security number indicate the State of residence of the applicant.)

Data submitted by the States are compiled and analyzed by the ORR statistician, who then prepares a summary report which is included in ORR's annual Report to Congress. The primary use of the data is to quantify and analyze refugee secondary migration among the 50 States. ORR uses these data to adjust its refugee arrival totals in order to calculate the ORR social service allocation.

Respondents: State, Local or Tribal.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State-of-Origin Report	50	1	4.333	217

Estimated Total Annual Burden Hours: 217.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration of Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: January 7, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–563 Filed 1–10–02; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Revised Form OCSE–100, State Plan for Child Support Under Title IV–D of the Social Security Act.

OMB No.: 0970–0017.

Description: The state plan preprint and amendments serve as a contract with OCSE in outlining the activities the state will perform as required by law in order for states to receive federal funds. We are asking for approval to revise one state plan preprint page to reflect new federal requirements regarding medical support enforcement.

Response: 54.

ANNUAL BURDEN ESTIMATES

Instruments	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OCSE–100	54	1	.72	39

Estimated Total Annual Burden Hours: 39.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment

is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW., Washington, DC 20503, Attn: Desk Officer for ACF.

Dated: December 16, 2002.

Robert Sargis,

Reports Clearance Officer

[FR Doc. 03–564 Filed 1–10–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: DHHS/ACF Rural Welfare-to-Work Strategies Demonstration Evaluation Project 18-Month Survey.

OMB No.: New collection.

Description: The Rural Welfare-to-Work Strategies Demonstration Evaluation Project, which was developed and funded by the Administration for Children and Families (ACF) of the U.S. Department of Health and Human Services (HHS), is a national evaluation to determine the benefits and cost-effectiveness of methods designed to aid current or former Temporary Assistance for Needy Families (TANF) recipients or other low-income families as they transition from welfare to the employment arena. This evaluation chiefly attempts to address four research questions:

- What are the issues and challenges associated with operating the new welfare-to-work services and policy approaches being studied.
- How effective are the welfare-to-work programs under the project in increasing employment and earnings and in improving other measures?
- What are the net costs of the welfare-to-work programs, and do the programs' benefits outweigh the costs?
- What approaches should policymakers and program managers consider in designing strategies to improve the efficacy of welfare-to-work strategies for families in rural areas?

The evaluation employs a multi-pronged approach to answer the research questions. These approaches include: (1) An impact study, which will examine the differences between control and intervention groups with respect to factors such as employment rates, earnings, and welfare receipt; (2) a cost-benefit analysis, which will calculate estimates of net program cost-effectiveness; and (3) an in-depth process study, which will identify implementation issues and challenges, examine program costs, and provide details on how programs achieve observed results. The data collected during the conduct of this study will be used for the following purposes:

- To study rural welfare-to-work programs' effects on factors such as employment, earnings, educational attainment, family composition;
- To collect data on a wider range of outcome measures—such as job acquisition, retention, and advancement, job quality, educational attainment, and employment barriers—than is available through welfare or unemployment insurance records, in order to understand how individuals are being affected by the demonstration programs;
- To support research on the implementation of welfare-to-work programs across sites;
- To obtain program participation and service use information important to the evaluation's cost-benefit component; and
- To obtain contact information for a future follow-up survey that will be important to achieving high response rates for that survey.

Respondents: The respondents of the 18-month follow-up survey are current and former TANF recipients, or individuals in families at risk of needing TANF benefits (working poor, hard-to-employ) from the three states participating in the evaluation (Illinois, Nebraska, and Tennessee). The survey will be administered to both intervention and control groups in each participating site. The estimated sample size for the survey is 3,400 individuals, including projected samples of 2,200 in Tennessee, and 600 each in Illinois and Nebraska. The survey will be conducted primarily by telephone, with field interviews conducted with those individuals who cannot be interviewed by telephone.

Respondents of the process study data collection efforts (interviews, case studies, and focus groups) include State and local-level agency staff from welfare agencies and other organizations. These individuals include program directors and site managers, program line staff, workforce development staff, TANF agency staff, and community partners and employers. Approximately 105 staff members per site are expected to participate in semi-structured interviews, 21 in case conferences, and 108 in focus groups, across the three demonstration sites.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
18-Month Follow-up Survey	963	1	45 minutes or .75 hours	723
Process Study Data Collection Staff Interviews	105	1	75 minutes or 1.15 hours	120.8
Process Study Data Collection Staff Case Conferences	21	1	30 minutes or .5 hours	10.5
Process Study Data Collection Staff Focus Groups	108	1	90 minutes or 1.5 hours	162

Estimated Total Annual Burden Hours: 1016.3.

Additional Information

Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer.

OMB Comment

OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register.** Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, 725 17th Street, NW.,

Washington, DC 20503. Attn: Desk Officer for ACF.

Dated: January 7, 2003.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 03–639 Filed 1–10–03; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0566]

Renee Peugeot; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Renee Peugeot from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Ms. Peugeot was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product. Ms. Peugeot failed to request a hearing and, therefore, has waived her opportunity for a hearing concerning this action.

DATES: This order is effective January 13, 2003.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nicole K. Mueller, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

On August 31, 2000, the U.S. District Court for the Northern District of Alabama entered judgment against Ms. Peugeot for two counts of making false statements to an agency of the United States, two counts of mail fraud, and one count of conspiracy to commit offenses against the United States, Federal felony offenses under 18 U.S.C. 2, 1001, 1341, and 371, respectively. These offenses were committed as part of the development of a new drug for which Ms. Peugeot was conducting efficacy trials.

As a result of this conviction, FDA served Ms. Peugeot by certified mail on May 8, 2002, a notice proposing to permanently debar Ms. Peugeot from providing services in any capacity to a person that has an approved or pending drug product application. The proposal also offered Ms. Peugeot an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(A) of the act (21 U.S.C. 335a(a)(2)(A)), that Ms. Peugeot was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product. Ms. Peugeot was provided 30 days to file objections and request a hearing. Ms. Peugeot did not request a hearing. Her failure to request a hearing constitutes a waiver of her opportunity for a hearing and a waiver of any contentions concerning her debarment.

II. Findings and Order

Therefore, the Director, Center for Drug Evaluation and Research, under section 306(a)(2)(A) of the act, and under authority delegated to her (21 CFR 5.34), finds that Ms. Renee Peugeot has been convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product.

As a result of the foregoing finding, Ms. Renee Peugeot is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 512, or 802 of the act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), (see sections 306(c)(1)(B) and (c)(2)(A)(ii) and 201(dd) of the act (21 U.S.C. 321(dd))). Any person with an approved or pending drug product application who knowingly uses the services of Ms. Peugeot, in any capacity, during her period of debarment, will be subject to civil money penalties (section 307(a)(6) of the act (21 U.S.C. 335b(a)(6))). If Ms. Peugeot, during her period of debarment, provides services in any capacity to a person with an approved or pending drug product application, she will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Ms. Peugeot during her period of debarment.

Any application by Ms. Peugeot for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 01N–0566 and sent to the Dockets Management Branch (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 2002.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 03–663 Filed 1–10–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01N–0565]

Harry W. Snyder, Jr.; Debarment Order

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is issuing an order under the Federal Food, Drug, and Cosmetic Act (the act) permanently debarring Harry W. Snyder, Jr., from providing services in any capacity to a person that has an approved or pending drug product application. FDA bases this order on a finding that Mr. Snyder was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product. Mr. Snyder failed to request a hearing and, therefore, has waived his opportunity for a hearing concerning this action.

DATES: This order is effective January 13, 2003.

ADDRESSES: Submit applications for termination of debarment to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Nicole K. Mueller, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION:

I. Background

On August 31, 2000, the U.S. District Court for the Northern District of Alabama entered judgment against Mr. Snyder for two counts of making false statements to an agency of the United States, two counts of mail fraud, and one count of conspiracy to commit

offenses against the United States, Federal felony offenses under 18 U.S.C. 2, 1001, 1341, and 371, respectively. These offenses were committed as part of the development of a new drug for which Mr. Snyder was conducting efficacy trials.

As a result of this conviction, FDA served Mr. Snyder by certified mail on May 8, 2002, a notice proposing to permanently debar Mr. Snyder from providing services in any capacity to a person that has an approved or pending drug product application. The proposal also offered Mr. Snyder an opportunity for a hearing on the proposal. The proposal was based on a finding, under section 306(a)(2)(A) of the act (21 U.S.C. 335a(a)(2)(A)), that Mr. Snyder was convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product. Mr. Snyder was provided 30 days to file objections and request a hearing. Mr. Snyder did not request a hearing. His failure to request a hearing constitutes a waiver of his opportunity for a hearing and a waiver of any contentions concerning his debarment.

II. Findings and Order

Therefore, the Director, Center for Drug Evaluation and Research, under section 306(a)(2)(A) of the act, and under authority delegated to her (21 CFR 5.34), finds that Mr. Harry W. Snyder, Jr., has been convicted of a felony under Federal law for conduct relating to the development or approval, including the process for development or approval, of a drug product.

As a result of the foregoing finding, Mr. Harry W. Snyder, Jr., is permanently debarred from providing services in any capacity to a person with an approved or pending drug product application under section 505, 512, or 802 of the act (21 U.S.C. 355, 360b, or 382), or under section 351 of the Public Health Service Act (42 U.S.C. 262), (see sections 306(c)(1)(B) and (c)(2)(A)(ii) and 201(dd) of the act (21 U.S.C. 321(dd))). Any person with an approved or pending drug product application who knowingly uses the services of Mr. Snyder, in any capacity, during his period of debarment, will be subject to civil money penalties (section 307(a)(6) of the act (21 U.S.C. 335b(a)(6))). If Mr. Snyder, during his period of debarment, provides services in any capacity to a person with an approved or pending drug product application, he will be subject to civil money penalties (section 307(a)(7) of the act). In addition, FDA will not accept or review any abbreviated new drug applications submitted by or with the assistance of Mr. Snyder during his period of debarment.

Any application by Mr. Snyder for termination of debarment under section 306(d)(4) of the act should be identified with Docket No. 01N–0565 and sent to the Dockets Management Branch (see **ADDRESSES**). All such submissions are to be filed in four copies. The public availability of information in these submissions is governed by 21 CFR 10.20(j). Publicly available submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: December 23, 2002.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 03–661 Filed 1–10–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 02M–0298, 02M–0299, 02M–0295, 02M–0381, 02M–0310, 02M–0348, 02M–0335, 02M–0353, 02M–0352, 02M–0336, 02M–0322, 02M–0361, 02M–0412, 02M–0409]

Medical Devices; Availability of Safety and Effectiveness Summaries for Premarket Approval Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing a list of premarket approval applications (PMAs) that have been approved. This list is intended to inform the public of the availability of safety and effectiveness summaries of approved PMAs through the Internet and the agency's Dockets Management Branch.

ADDRESSES: Submit written requests for copies of summaries of safety and effectiveness to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Please cite the appropriate docket number as listed in table 1 of this document when submitting a written request. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries of safety and effectiveness.

FOR FURTHER INFORMATION CONTACT: Thinh Nguyen, Center for Devices and Radiological Health (HFZ–402), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2186.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of January 30, 1998 (63 FR 4571), FDA published a final rule that revised 21 CFR 814.44(d) and 814.45(d) to discontinue individual publication of PMA approvals and denials in the **Federal Register**, providing instead to post this information on the Internet on FDA's home page at http://www.fda.gov. In addition, the regulations provide that FDA publish a quarterly list of available safety and effectiveness summaries of PMA approvals and denials that were announced during that quarter. FDA believes that this procedure expedites public notification of these actions because announcements can be placed on the Internet more quickly than they can be published in the **Federal Register**, and FDA believes that the Internet is accessible to more people than the **Federal Register**.

In accordance with section 515(d)(4) and (e)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(4) and (e)(2)), notification of an order approving, denying, or withdrawing approval of a PMA will continue to include a notice of opportunity to request review of the order under section 515(g) of the act. The 30-day period for requesting reconsideration of an FDA action under § 10.33(b) (21 CFR 10.33(b)) for notices announcing approval of a PMA begins on the day the notice is placed on the Internet. Section 10.33(b) provides that FDA may, for good cause, extend this 30-day period. Reconsideration of a denial or withdrawal of approval of a PMA may be sought only by the applicant; in these cases, the 30-day period will begin when the applicant is notified by FDA in writing of its decision.

The following is a list of approved PMAs for which summaries of safety and effectiveness were placed on the Internet from July 1, 2002, through September 30, 2002. There were no denial actions during this period. The list provides the manufacturer's name, the product's generic name or the trade name, and the approval date.

TABLE 1.—LIST OF SAFETY AND EFFECTIVENESS SUMMARIES FOR APPROVED PMAS MADE AVAILABLE JULY 1, 2002, THROUGH SEPTEMBER 30, 2002.

PMA Number/Docket No.	Applicant	Trade Name	Approval Date
P990017(S30)/02M–0298	Guidant Cardiac and Vascular Surgery Group.	ANCURE Aortoiliac Endograft System	April 24, 2002.
P990027(S2)/02M–0299	Bausch & Lomb Surgical, Inc.	TECHNOLAS 217A Excimer Laser System	May 17, 2002.
P870024(S43)/02M–0295	Paragon Vision Sciences.	PARAGON CRT (Paflufocon B), PARAGON CRT 100 (Paflufocon D), PARAGON QUADRA RG (Paflufocon B), and PARAGON QUADRA RG 100 (Paflufocon D).	June 13, 2002.
P010031/02M–0381	Medtronic, Inc.	INSYNC ICD Model 7272 Dual Chamber Implantable Cardioverter With Resynchronization Therapy and Model 9969 Application Software.	June 26, 2002.
P000058/02M–0310	Medtronic Sofamor Danek, Inc.	INFUSE BONE GRAFT/LT-CAGE Lumbar Tapered Fusion Device.	July 2, 2002.
P890017(S10)/02M–0348	Cordis Corp.	PALMAZ Balloon-Expandable Stent (Models P104R, P154R, P204R).	July 10, 2002.
P990018(S2)/02M–0335	Menicon Co., Ltd.	MENICON Z (Tisilfocon A) Rigid Gas Permeable Contact Lens.	July 12, 2002.
P960040(S26)/02M–0353	Guidant Corp.	VENTAK PRIZM 2 VR/DR Models 1860/1861; VENTAK PRIZM VR/DR Models 1850/1851/1855/1856; VENTAK PRIZM VR/DR HE Models 1852/1853, VENTAK Mini IV Models 1790/1793/1796; and VENTAK Mini III HE Model 1789.	July 18, 2002.
P910077(S37)/02M–0352	Guidant Corp.	VENTAK PRIZM 2 VR/DR Models 1860/1861; VENTAK PRIZM VR/DR Models 1850/1851/1855/1856; VENTAK PRIZM VR/DR HE Models 1852/1853, VENTAK Mini IV Models 1790/1793/1796; and VENTAK Mini III HE Model 1789.	July 18, 2002.
P010039/02M–0336	Siemens Medical Solutions USA, Inc.	Siemens SONOCUR Basic	July 19, 2002.
P020003/02M–0322	Mentor Corp.	Mentor Saline-Filled Testicular Prosthesis	July 19, 2002.
H010004/02M–0361	Guidant Corp.	NEUROLINK System, Including NEUROLINK Stent and Delivery Catheter and NEUROLINK Balloon Dilatation Catheter.	August 9, 2002.
P990026(S8)/02M–0412	Cygnus, Inc.	GlucoWatch G2 Biographer	August 26, 2002.
H020002/02M–0409	SMART Therapeutics, Inc.	Neuroform Microdelivery Stent System	September 11, 2002.

II. Electronic Access

Persons with access to the Internet may obtain the documents at http://www.fda.gov/cdrh/pmapage.html.

Dated: December 24, 2002.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 03–662 Filed 1–10–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4723–FA–12]

Housing Counseling Program Announcement of Funding Awards for Fiscal Year 2002

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a SuperNOFA competition for funding of HUD-approved counseling agencies to provide counseling services. This announcement contains the names and addresses of the agencies selected for funding and the amount. Additionally, this announcement outlines various noncompetitive housing counseling awards made by the Department.

FOR FURTHER INFORMATION CONTACT: Margaret Burns, Director, Program Support Division, Room 9266, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–2121. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service on 1–800–877–8339 or (202) 708–9300. (With the exception of the ''800'' number, these are not toll free numbers.)

SUPPLEMENTARY INFORMATION: The Housing Counseling Program is authorized by section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). HUD enters into agreement with qualified public or private nonprofit organizations to provide housing counseling services to low- and moderate-income individuals and families nationwide. The services include providing information, advice and assistance to renters, first-time homebuyers, homeowners, and senior citizens in areas such as pre-purchase counseling, financial management, property maintenance and other forms of housing assistance to improve the clients' housing conditions and meet the responsibilities of tenancy and homeownership.

The purpose of the grant is to assist HUD-approved housing counseling agencies in providing housing counseling services to HUD-related and other clients. HUD funding of approved

housing counseling agencies is not guaranteed and when funds are awarded, a HUD grant does not cover all expenses incurred by an agency to deliver housing counseling services. Counseling agencies must actively seek additional funds from other sources such as city, county, state and federal agencies and from private entities to ensure that they have sufficient operating funds. The availability of housing counseling program grants depends upon whether the U.S. Congress appropriates funds for this purpose, the amount of those funds, and the outcome of the competitions for award.

The 2002 grantees announced in Appendix A of this notice were selected for funding through a competition announced in a NOFA published in the **Federal Register** on March 26, 2002 (67 FR 14051), for the housing counseling program. Applications submitted for each competition were scored and selected for funding on the basis of selection criteria contained in the notice. HUD awarded $18,249,998 million in housing counseling grants to 334 housing counseling organizations nationwide: 306 local agencies, 12 intermediaries, and 16 State housing finance agencies. HUD also awarded two competitive housing counseling grants, totaling $250,000, to provide counseling services to families and individuals living in the Colonias, the Southwest Border Region of the U.S. These grants were awarded to West Tennessee Legal Services in the amount of $225,200 and Community Development Corporation of Brownsville, TX in the amount of $24,800.

Additionally, HUD awarded one noncompetitive housing counseling grant in the amount of $749,650 to the American Association of Retired Persons (AARP) to provide housing counseling services related to the Home Equity Conversion (HECM) Program.

Finally, HUD awarded three noncompetitive grants totaling $1.5 million to three organizations to provide counseling services to families and individuals living in properties eligible for participation in HUD's Mark to Market and Mark-up-to-Market programs. These grants were made in accordance with section 514 of the legislation entitled Multifamily Assisted Housing Reform and Affordability Act of 1997. Each of the following three groups were awarded a grant in the amount of $500,000: the National Foundation for Credit Counseling (NFCC), the Housing Partnership Network, and the Neighborhood Reinvestment Corporation (NRC).

The Catalog of Federal Domestic Assistance number for this program is 14.169.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the names, addresses, and award amounts as provided in Appendix A.

Dated: December 23, 2002.

Sean Cassidy,

General Deputy Assistant Secretary for Housing.

Appendix A

Fiscal Year 2002 Funding Awards for the Housing Counseling Program

Intermediary Organizations (12)

Acorn Housing Corporation, 846 N. Broad Street, Philadelphia, PA 19130, Amount Awarded: $1,167,044.00

Catholic Charities USA, 1731 King Street, Suite 200, Alexandria, VA 22314, Amount Awarded: $760,328.00

Citizens' Housing and Planning Association, 18 Tremont Street, Suite 401, Boston, MA 02108, Amount Awarded: $500,000.00

Housing Opportunities, Inc., 133 Seventh Avenue, P.O. Box 9, McKeesport, PA 15132, Amount Awarded: $760,328.00

McAuley Institute, 8300 Colesville Road, Suite 310, Silver Spring, MD 20910, Amount Awarded: $237,409.00

National Association of Real Estate Brokers, 1301 East 85th Avenue, Oakland, CA 94621–1605, Amount Awarded: $411,715.00

National Council of La Raza, 1111 19th Street, NW., Suite 1000, Washington, DC 20036, Amount Awarded: $1,050,839.00

National Foundation for Credit Counseling, 801 Roeder Road, Suite 900, Silver Spring, MD 20910, Amount Awarded: $1,500,000.00

National Urban League, 120 Wall Street, New York, NY 10005, Amount Awarded: $760,328.00

Neighborhood Reinvestment Corporation, 1325 G Street, NW., Suite 800, Washington, DC 20005–3100, Amount Awarded: $1,399,453.00

The Housing Partnership Network, Inc., 160 State Street, 5th Floor, Boston, MA 02109, Amount Awarded: $1,457,555.00

West Tennessee Legal Services, Inc., 210 West Main Street, P.O. Box 2066, Jackson, TN 38301, Amount Awarded: $395,000.00

State Housing Finance Agencies (16)

Atlanta (SHFA)

Georgia Housing & Finance Authority, 60 Executive Park South, NE, Atlanta, GA 30329–2231, Amount Awarded: $77,607.00

Kentucky Housing Corporation, 1231 Louisville Road, Frankfort, KY 40601, Amount Awarded: $72,766.00

Mississippi Home Corporation, 735 Riverside Drive, P.O. Box 22369, Jackson, MS 39225–3369, Amount Awarded: $34,043.00

Tennessee Housing Development Agency, 404 James Robertson Pkwy, Suite 1114, Nashville, TN 37243, Amount Awarded: $38,600.00

Virgin Islands Housing Finance Authority, 210–3A Altona Frostco Building, Suite 101, St. Thomas, VQ 00802, Amount Awarded: $32,000.00

Denver (SHFA)

South Dakota Housing Development Authority, P.O. Box 1237, Pierre, SD 57501–1237, Amount Awarded: $100,000.00

Philadelphia (SHFA)

Delaware State Housing Authority, Carvel State Building 801 North French Street, 10th Floor, Wilmington, DE 19801, Amount Awarded: $16,357.00

Maine State Housing Authority, 353 Water Street, Augusta, ME 04330–4633, Amount Awarded: $53,268.00

New Hampshire Housing Finance Authority, P.O. Box 5087, Manchester, NH 03108, Amount Awarded: $27,714.00

New Jersey Housing & Mortgage Finance Agency, 637 South Clinton Avenue, Trenton, NJ 08611, Amount Awarded: $22,036.00

Pennsylvania Housing Finance Agency, 2101 North Front Street, Harrisburg, PA 17105, Amount Awarded: $56,108.00

Rhode Island Housing & Mortgage Finance Corporation, 44 Washington Street, Providence, RI 02903, Amount Awarded: $27,714.00

State of Michigan, 735 E. Michigan, P.O. Box 30044—MSHDA, Lansing, MI 48909, Amount Awarded: $24,875.00

Virginia Housing Development Authority, 601 S. Belvedere Street, Richmond, VA 23220, Amount Awarded: $39,072.00

Santa Ana (SHFA)

Idaho Housing and Finance Association, 565 W. Myrtle, P.O. Box 7899, Boise, ID 83707–1899, Amount Awarded: $40,893.00

Washington State Housing Finance Commission, 1000 Second Avenue, Suite 2700, Seattle, WA 98104–1046, Amount Awarded: $183,392.00

Local Organizations (308)

Atlanta (HOC)

Access Living of Metropolitan Chicago, 614 West Roosevelt Road, Chicago, IL 60607, Amount Awarded: $35,303.00

Affordable Housing Coalition, 34 Wall Street, Suite 607, Asheville, NC 28801, Amount Awarded: $35,303.00

Affordable Housing Corporation, 601 S. Adams Street, Marion, IN 46953, Amount Awarded: $12,576.00

Alabama Council on Human Relations, P.O. Drawer 1632, 319 West Glenn Avenue, Auburn, AL 36831–1632, Amount Awarded: $5,000.00

Anderson Housing Authority, 528 West 11th Street, Anderson, IN 46016, Amount Awarded: $24,481.00

Appalachian Housing & Redevelopment Corporation, 800 North Fifth Avenue, Rome, GA 30162, Amount Awarded: $26,645.00

Birmingham Urban League, Inc., 1229 3rd Avenue North, P.O. Box 11269, Birmingham, AL 35203, Amount Awarded: $16,905.00

Campbellsville Housing and Redevelopment Authority, P.O. Box 597, 400 Ingram

Avenue, Campbellsville, KY 42718, Amount Awarded: $11,494.00
Carolina Regional Legal Services, Inc., P.O. Box 479, 279 West Evans Street, Florence, SC 29503–0479, Amount Awarded: $17,987.00
CDBG Operations Corporation, Inc., 301 River Park Drive, East St. Louis, IL 62201, Amount Awarded: $29,892.00
CEFS Economic Opportunity Corporation, 1805 S. Banker Street, P.O. Box 928, Effingham, IL 62401, Amount Awarded: $14,740.00
CEIBA Housing & Economic Development Corporation, Avenue Lauro Pinero #252 (Altos), P.O. Box 203, Ceiba, PR 00735, Amount Awarded: $9,329.00
Chicago Commons Association, 3645 West Chicago Avenue, Chicago, IL 60651, Amount Awarded: $32,057.00
Citizens for Affordable Housing, Inc., 1719 West End Avenue, Suite 322W, Nashville, TN 37203, Amount Awarded: $10,411.00
City of Albany, Georgia, 230 S. Jackson St., Suite 315, Albany, GA 31701, Amount Awarded: $14,740.00
City of Bloomington House, P.O. Box 100, 401 North Morton Street, Bloomington, IN 47402, Amount Awarded: $22,316.00
Cobb Housing, Inc., 700 Sandy Plains Road, Suite B–8, Marietta, GA 30066, Amount Awarded: $14,740.00
Community Action & Community Development Agency, P.O. Box 1788, 207 Commerce Circle, SW., Decatur, AL 35601, Amount Awarded: $25,563.00
Community Action Agency Huntsville/ Madison & Limestone, 3516 Springfield Road, P.O. Box 3975, Huntsville, AL 35810–0975, Amount Awarded: $7,165.00
Community Action Agency of Northwest AL, 745 Thompson Street, Florence, AL 35630, Amount Awarded: $10,000.00
Community and Economic Development Assoc. of Cook County, 208 South LaSalle, Suite 1900, Chicago, IL 60604–1001, Amount Awarded: $21,234.00
Community Equity Investments, Inc. (CEII), 302 North Barcelona Street, Pensacola, FL 32501, Amount Awarded: $15,823.00
Community Housing Initiative, Inc., P.O. Box 410522, 3033 College Wood Drive, Melbourne, FL 32941, Amount Awarded: $11,485.00
Consumer Credit Counseling of NWI, Inc., 3637 Grant Street, Gary, IN 46408–1439, Amount Awarded: $12,576.00
Consumer Credit Counseling Service of FL. Gulf Coast, Inc., 5201 W. Kennedy Blvd., Suite 110, Tampa, FL 33609, Amount Awarded: $22,316.00
Consumer Credit Counseling Service of Forsyth County, Inc., 8064 North Point Boulevard, Suite 204, Winston-Salem, NC 27106, Amount Awarded: $27,727.00
Consumer Credit Counseling Service of West Florida, 14 Palafox Place, Pensacola, FL 32501, Amount Awarded: $10,411.00
Consumer Credit Counseling Service of Western NC, 50 South French Broad Ave., Suite 227, Ashville, NC 28801, Amount Awarded: $24,481.00
Cumberland Community Action Program, Inc., P.O. Box 2009, 316 Green Street, Fayetteville, NC 28302, Amount Awarded: $28,810.00
Dekalb Fulton Housing Counseling Center, Inc., 4151 Memorial Drive, Suite 107–E, Decatur, GA 30032, Amount Awarded: $34,221.00
Dupage Homeownership Center, Inc., 1333 North Main Street, Wheaton, IL 60187, Amount Awarded: $32,490.00
East Athens Development Corporation, Inc., 410 McKinley Drive, Suite 101,
Athens, GA 30601, Amount Awarded: $33,139.00
Economic Opportunity for Savannah-Chatham County Area, Inc., 618 West Anderson Street, P.O. Box 1353, Savannah, GA 31401, Amount Awarded: $35,303.00
Elizabeth City State University, 1704 Weeksville Road, Campus Box 761, Elizabeth City, NC 27909, Amount Awarded: $28,875.00
Family and Children's Services of Chattanooga, Inc., CCCS 5704 Marlin Road, Suite 2300, Chattanooga, TN 37411, Amount Awarded: $12,576.00
Family Counseling Services, 220 Coral Sands Drive, Rockledge, FL 32955, Amount Awarded: $35,303.00
Family Service Center, 1800 Main Street, Columbia, SC 29201, Amount Awarded: $17,987.00
Family Services, Inc., 4925 Lacross Road, Suite 215, North Charleston, SC 29406, Amount Awarded: $12,576.00
Fort Wayne Urban League, Inc., 227 East Washington Boulevard, Fort Wayne, IN 46802, Amount Awarded: $7,165.00
Gainesville/Hall County Neighborhood Revitalization, P.O. Box 642, Gainesville, GA 30503, Amount Awarded: $25,563.00
Goldenrule Housing & Community Development, 417 East 2nd Street, Sanford, FL 32771, Amount Awarded: $7,165.00
Greenville County Human Relations Commission, 301 University Ridge, Suite 1600, Greenville, SC 29601, Amount Awarded: $20,000.00
Gulf Coast Community Action Agency, Inc., 500 24th Street, P.O. Box 519, Gulfport, MS 39502–0519, Amount Awarded: $37,468.00
Gwinnett Housing Resource Partnership, Inc., 3453 Holcomb Bridge Road, Suite 140, Norcross, GA 30092, Amount Awarded: $36,386.00
Hammond Housing Authority, 7329 Columbia Circle—West, Hammond, IN 46324, Amount Awarded: $19,069.00
Homekeeping Mortgage Default Counseling, 2808 Four Seasons Blvd., Greensboro, NC 27406, Amount Awarded: $9,329.00
Homes in Partnership, Inc., 235 E. Fifth Street, P.O. Box 761, Apopka, FL 32704–0761, Amount Awarded: $9,329.00
Hoosier Uplands Economic Development Corporation, 521 West Main Street, Mitchell, IN 47446, Amount Awarded: $11,494.00
Hope of Evansville, Inc., 608 Cherry Street, Evansville, IN 47713, Amount Awarded: $17,987.00
Housing and Economic Leadership Partners, Inc., 485 Huntington Road, Suite 200, Athens, GA 30606, Amount Awarded: $20,000.00
Housing and Neighborhood Dev. Serv of Central Florida, 990 North Bennett Avenue, Winter Park, FL 32789, Amount Awarded: $28,810.00
Housing Authority of the Birmingham District, 1826 3rd Avenue South, Birmingham, AL 25233, Amount Awarded: $12,576.00
Housing Authority of the City of Fort Wayne, P.O. Box 13489, 2013 South Anthony Blvd., Fort Wayne, IN 46869–3489, Amount Awarded: $13,658.00
Housing Authority of the City of High Point, 500 East Russell Avenue, Post Office Box 1779, High Point, NC 27260, Amount Awarded: $28,810.00
Housing Authority of the County of Lake, 33928 North Route 45, Grayslake, IL 60030, Amount Awarded: $12,003.00
Housing Development Corporation of St. Joseph County, 1200 County City Building, South Bend, IN 46601, Amount Awarded: $17,987.00
Housing Education and Economic Development, 3405 Medgar Evers Blvd., Jackson, MS 39213, Amount Awarded: $20,152.00
Indianapolis Urban League, 777 Indiana Avenue, Indianapolis, IN 46202, Amount Awarded: $13,658.00
Jefferson County Committee for Economic Opportunity, 300 Eighth Ave. West, Birmingham, AL 35204, Amount Awarded: $5,000.00
Johnston-Lee Community Action, Inc., P.O. Drawer 711, 1102 Massey Street Smithfield, NC 27577, Amount Awarded: $11,494.00
Latin American Association, 2665 Buford Highway, Atlanta, GA 30324, Amount Awarded: $26,645.00
Latin United Community Housing Association, 3541 W. North Avenue, Chicago, IL 60647, Amount Awarded: $32,057.00
Legal Assistance Foundation of Chicago, 111 West Jackson Blvd., Chicago, IL 60604, Amount Awarded: $33,139.00
Lincoln Hills Development Corporation, 302 Main Street, P.O. Box 336, Tell City, IN 47586, Amount Awarded: $9,329.00
Manatee Coalition for Affordable Housing, Inc., 319 6th Avenue West, Bradenton, FL 34205, Amount Awarded: $25,563.00
Manatee Opportunity Council, Inc., 369 6th Avenue West, Bradenton, FL 34205, Amount Awarded: $17,987.00
Memphis Area Legal Services, 109 N. Main, Suite 200, Memphis, TN 38103–5013, Amount Awarded: $29,892.00
Miami Beach Community Development Corporation, 945 Pennsylvania Avenue, 2nd Floor, Miami Beach, FL 33139, Amount Awarded: $23,398.00
Mid-Florida Housing Partnership, Inc., 330 North Street, P.O. Box 1345, Daytona Beach, FL 32114, Amount Awarded: $15,823.00
Middle Georgia Community Action Agency, Inc., P.O. Box 2286, 121 Prince Street, Warner Robins, GA 31099, Amount Awarded: $28,600.00
Mobile Housing Board, 151 South Claiborne Street, P.O. Box 1345, Mobile, AL 36633–1345, Amount Awarded: $9,329.00
Muncie Homeownership and Development Center, 407 South Walnut Street, Muncie, IN 47305, Amount Awarded: $10,411.00
Neighborhood Housing Opportunities, Inc., 1548 Poplar Avenue, Memphis, TN 38104, Amount Awarded: $12,000.00

Northeastern Community Development Corp., P.O. Box 367, 154 Highway 158 East, Camden, NC 27921, Amount Awarded: $17,987.00
Northwestern Regional Housing Authority, P.O. Box 2510, 869 Hwy. 105 Ext., Boone, NC 28607, Amount Awarded: $25,563.00
Ocala Housing Authority, 233 S.W. 3rd Street, Ocala, FL 34474, Amount Awarded: $25,000.00
Organized Community Action Program, P.O. Box 908, Troy, AL 36081, Amount Awarded: $8,247.00
Partnership for Homeownership, Inc., 3180 Adloff Lane, Suite 400, Springfield, IL 62703, Amount Awarded: $5,000.00
Purchase Area Housing Corporation, P.O. Box 588, Mayfield, KY 42066, Amount Awarded: $7,165.00
Reach, Inc, 126 North Broadway, Lexington, KY 40507, Amount Awarded: $8,247.00
Realtor-Community Housing Foundation, 2250 Regency Road, Lexington, KY 40503, Amount Awarded: $12,576.00
Residential Resources, Inc., 602 Gallatin Road, Suite 102, Nashville, TN 37206, Amount Awarded: $17,987.00
River City Community Development Corporation, 501 E. Main Street, Elizabeth City, NC 27909, Amount Awarded: $5,000.00
Rogers Park Community Council, 1530 W. Morse Avenue, Chicago, IL 60626, Amount Awarded: $6,082.00
Sacred Heart Southern Missions Housing Corp., 6144 Highway 161 North, P.O. Box 365, Walls, MS 38680, Amount Awarded: $19,069.00
Sampson County CDC, 9936 Hobbton Highway, Clinton, NC 28328, Amount Awarded: $21,234.00
Sandhills Community Action Program, Inc., 103 Saunders Street, P O. Box 937, Carthage, NC 28327, Amount Awarded: $13,658.00
South Suburban Housing Center, 18220 Harwood Avenue, Suite 1, Homewood, IL 60430, Amount Awarded: $20,152.00
Spanish Coalition for Housing, 4035 West North Avenue, Chicago, IL 60639, Amount Awarded: $25,563.00
Tallahassee Lenders' Consortium Inc., 1114 East Tennessee Street, Tallahassee, FL 32308, Amount Awarded: $23,398.00
Tallahassee Urban League, Inc., 923 Old Bainbridge Road, Tallahassee, FL 32303, Amount Awarded: $19,069.00
Tenant Services & Housing Counseling, Inc., 136 North Martin Luther King Blvd., *Lexington, KY 40507, Amount Awarded:* $16,905.00
The Center for Affordable Housing, Inc., 203 E. Third Street, Suite 201, Sanford, FL 32771, Amount Awarded: $21,150.00
The Housing Authority of the City of Montgomery, 1020 Bell Street, Montgomery, AL 36104–3056, Amount Awarded: $8,247.00
Trident United Way, 6296 Rivers Avenue, P.O. Box 63305, North Charleston, SC 29419, Amount Awarded: $20,152.00
Unified Government of Athens-Clarke County, P.O. Box 1868, 375 Satula Ave., Athens, GA 30601, Amount Awarded: $26,645.00
Vollintine Evergreen Community Association (VECA)–CDC, 1680 Jackson Avenue, Memphis, TN 38107, Amount Awarded: $10,411.00
Wateree Community Action, Inc., P.O. Box 1838, 13 South Main Street, Sumter, SC 29150, Amount Awarded: $15,000.00
West Perrine Community Development Corporation, 17623 Homestead Avenue, Miami, FL 33157, Amount Awarded: $5,000.00
Willow Nonprofit Housing, Inc., P.O. Box 383, 200 A Commerce Street, Hayneville, AL 36040, Amount Awarded: $9,329.00
Wilmington Housing Finance and Development, P.O. Box 547, 310 North Front Street, Wilmington, NC 28402, Amount Awarded: $30,000.00
Woodbine Community Organization, 222 Oriel Avenue, Nashville, TN 37210, Amount Awarded: $26,645.00
Denver (HOC)
Adams County Housing Authority, 7190 Colorado Blvd., Commerce City, CO 80022, Amount Awarded: $56,739.00
Boulder County Housing Authority, P.O. Box 471, Boulder, CO 80306, Amount Awarded: $44,700.00
Carver County Housing & Redevelopment Authority, 705 Walnut Street, Chaska, MN 55318, Amount Awarded: $45,908.00
CCCS of Central Oklahoma, Inc., 3230 N. Rockwell Avenue, Bethany, OK 73008, Amount Awarded: $37,495.00
Chickasaw Nation, Division of Housing, P.O. Box 788, Ada, OK 74821–0788, Amount Awarded: $19,050.00
City of Fort Worth, Housing Department, 1000 Throckmorton Street, Fort Worth, TX 76102, Amount Awarded: $60,349.00
City of San Antonio, 115 Plaza de Armas, Suite 230, San Antonio, TX 78205, Amount Awarded: $27,854.00
Community Action Agency of Oklahoma City and OK/CN Counties, 1900 N.W. 10th Street, Oklahoma City, OK 73106, Amount Awarded: $21,080.00
Community Action Project of Tulsa County, 717 S. Houston Avenue, Suite 200, Tulsa, OK 74127, Amount Awarded: $50,000.00
Community Action Services, 257 East Center Street, Provo, UT 84606, Amount Awarded: $32,000.00
Community Action, Inc. of Rock and Walworth Counties, 2300 Kellogg Avenue, Janesville, WI 53546, Amount Awarded: $15,000.00
Community Development Authority of the City of Madison, 215 Martin Luther King Jr. Blvd, Suite 318, P.O. Box 1785, Madison, WI 53701–1785, Amount Awarded: $61,176.00
Community Development Corporation of Brownsville, 901 East Levee Street, Brownsville, TX 78520, Amount Awarded: $45,000.00
Community Development Support Association (CDSA), 2615 E. Randolph, Enid, OK 73701, Amount Awarded: $30,000.00
Community Services League, 300 W. Maple, P.O. Box 4178, Independence, MO 64051, Amount Awarded: $36,303.00
Dakota Plains Legal Services, Inc., 528 Kansas City Street, Rapid City, SD 57709, Amount Awarded: $20,000.00
Family Housing Advisory Services, Inc., 2416 Lake Street, Omaha, NE 68111, Amount Awarded: $100,000.00
Family Management Credit Counselors, Inc. (FMCCI), 1409 W. 4th Street, Waterloo, IA 50702, Amount Awarded: $20,000.00
Hawkeye Area Community Action Program, Inc., 1515 Hawkeye Drive, P.O. Box 490, Hiawatha, IA 52233–0490, Amount Awarded: $25,000.00
High Plains Community Development Corp. Inc., 130 East Second Street, Chadron, NE 69337, Amount Awarded: $39,914.00
Housing and Credit Counseling, Inc., 1195 SW Buchanan, Suite 101, Topeka, KS 66604–1183, Amount Awarded: $71,180.00
Housing Authority of the City of Muskogee, 220 North 40th Street, Muskogee, OK 74401, Amount Awarded: $6,191.00
Housing Authority of the City of Stillwater, 807 S. Lowry, Stillwater, OK 74074, Amount Awarded: $24,244.00
Housing Options Provided for the Elderly, 4265 Shaw, St. Louis, MO 63110, Amount Awarded: $12,000.00
Housing Partners of Tulsa, Inc., P.O. Box 6369, Tulsa, OK 74148, Amount Awarded: $27,854.00
Interfaith of Natrona County, Inc., 1514 East 12th Street, #303, Casper, WY 82601, Amount Awarded: $7,419.00
Iowa Citizens for Community Improvement, 2005 Forest Avenue, Des Moines, IA 50311, Amount Awarded: $25,000.00
Justine Petersen Housing & Reinvestment Corp., 5031 Northrup Avenue, St. Louis, MO 63110, Amount Awarded: $82,012.00
KI Bois Community Action Foundation, Inc., P.O. Box 727, Stigler, OK 74462, Amount Awarded: $17,081.00
Lafayette Consolidated Government, P.O. Box 4017-C, Lafayette, LA 70502–4017, Amount Awarded: $20,000.00
Legal Aid of Central Texas, 2201 Post Road, Suite 104, Austin, TX 78704, Amount Awarded: $50,000.00
Legal Aid Society of Albuquerque, Inc., P.O. Box 25486, Albuquerque, NM 87125–5486, Amount Awarded: $30,000.00
Legal Services of Eastern Missouri, Inc., 4232 Forest Park Avenue, St. Louis, MO 63108, Amount Awarded: $68,493.00
Lincoln Action Program, Inc., 210 O Street, Lincoln, NE 68508, Amount Awarded: $32,500.00
Metro Affordable Housing Corporation, 5118 Gallagher Avenue, Laredo, TX 78041, Amount Awarded: $9,802.00
Neighbor to Neighbor, Inc., 424 Pine Street, Suite 203, Fort Collins, CO 80524, Amount Awarded: $30,000.00
Norman Housing Authority, 700 N. Berry Road, Norman, OK 73069, Amount Awarded: $45,908.00
Northeast Denver Housing Center, 1735 Gaylord Street, Denver, CO 80206, Amount Awarded: $12,221.00
Northern Arapaho Tribal Housing, P.O. Box 8236, Ethete, WY 82520, Amount Awarded: $29,082.00
Oglala Sioux Tribe Partnership for Housing, Inc., P.O. Box 3001, Pine Ridge, SD 57770, Amount Awarded: $19,442.00
Senior Housing, Inc., 2021 East Hennipin, Suite 372, Minneapolis, MN 55413, Amount Awarded: $18,249.00,
Southeastern North Dakota Community Action Agency, 3233 South University Drive, P.O. Box 2683, Fargo, ND 58104, Amount Awarded: $14,000.00

Southern Minnesota Regional Legal Service, 700 Minnesota Building, 46 East Fourth Street, St. Paul, MN 55101, Amount Awarded: $30,000.00
St. Paul Urban League, 401 Selby Avenue, St. Paul, MN 55102, Amount Awarded: $30,000.00
T.A.C.T.I.C.S., Inc, DBA Pilot City Neighborhood Services, 1315 Penn Avenue North, Minneapolis, MN 55411, Amount Awarded: $5,000.00
United Neighbors, Inc., 808 Harrison Street, Davenport, IA 52803, Amount Awarded: $13,412.00
Universal Housing Development Corp., P.O. Box 846, Russellville, AR 72811, Amount Awarded: $44,716.00
West Central Missouri Community Action Agency, 106 W. 4th, P.O. Box 125, Appleton City, MO 64724, Amount Awarded: $12,221.00
Women's Opportunity & Resource Development, 127 N. Higgins, Suite 307, Missoula, MT 59802, Amount Awarded: $30,000.00
Youth Education and Health in Soulard, 1921 S. 9th Street, St. Louis, MO 63104, Amount Awarded: $17,971.00
Philadelphia (HOC)
Affordable Homes of Millville Ecumenical (Ahome), Inc., P.O. Box 241, Millville, NJ 08332, Amount Awarded: $6,950.00
Albany County Rural Housing Alliance, Inc., P.O. Box 407, 24 Martin Road, Voorheesville, NY 12186, Amount Awarded: $17,383.00
Arundel Community Development Services, Inc., 2660 Riva Road, Suite 210, Annapolis, MD 21401, Amount Awarded: $22,020.00
Asian Americans for Equality, Inc., 111 Division Street, New York, NY 10002, Amount Awarded: $19,122.00
Belmont Shelter Corporation, 1195 Main Street, Buffalo, NY 14209–2196, Amount Awarded: $17,962.00
Berks Community Action Program/Budget Counseling Center, P.O. Box 22, Berks County, Reading, PA 19603–0022, Amount Awarded: $15,644.00
Berkshire County Regional Housing Authority, 150 North Street, Pittsfield, MA 01201, Amount Awarded: $16,803.00
Better Housing League of Greater Cincinnati, 2400 Reading Road, Cincinnati, OH 45202, Amount Awarded: $20,860.00
Better Neighborhoods Incorporated, 986 Albany Street, Schenectady, NY 12307, Amount Awarded: $21,440.00,
Bishop Sheen Ecumenical Housing Foundation, Inc., 935 East Avenue, Suite 300, Rochester, NY 14607, Amount Awarded: $18,500.00
Catholic Charities, Diocese of Metuchen, 540–550 Route 22 East (Bridgewater), Somerset, NJ 08807, Amount Awarded: $8,688.00
Center City Neighborhood Development Corporation, 1824 Main Street, Niagara Falls, NY 14305, Amount Awarded: $18,542.00
Chautauqua Opportunities, Inc., 17 West Courtney Street, Dunkirk, NY 14048, Amount Awarded: $22,600.00
Chester Community Improvement Project, 412 Avenue of the States, Chester, PA 19016, Amount Awarded: $16,223.00
Citizen Action of New Jersey, 400 Main Street, Hackensack, NJ 07601, Amount Awarded: $15,064.00
City of Frederick, 100 South Market Street, Frederick County, Frederick, MD 21701, Amount Awarded: $8,000.00
Coastal Enterprises, Inc., 36 Water Street, P.O. Box 268, Wiscasset, ME 04578, Amount Awarded: $19,122.00
Commission on Economic Opportunity, 165 Amber Lane, P.O. Box 1127, Wilkes-Barre, PA 18703, Amount Awarded: $16,223.00
Community Action Commission of Belmont Cty, 410 Fox-Shannon Place, St. Clairsville, OH 43950, Amount Awarded: $20,281.00
Community Action Committee of the Lehigh Valley, Inc., 651 East Broad Street, Bethlehem, PA 18018, Amount Awarded: $19,122.00
Community Action in Self Help, Inc., 48 Water Street, Lyons, NY 14489, Amount Awarded: $5,790.00
Community Action Program-Madison County, 3 East Main Street, P.O. Box 249, Morrisville, NY 13408, Amount Awarded: $22,600.00
Community Action Southwest, 150 West Beau Street, Suite 304, Washington, PA 15301, Amount Awarded: $10,427.00
Community Assistance Network, Inc., 7701 Dunmanway, Baltimore, MD 21222, Amount Awarded: $13,325.00
Community Development Corporation of Long Island, 2100 Middle Country Road, Centereach, NY 11720, Amount Awarded: $20,281.00
Community Housing, Inc., 613 Washington Street, Wilmington, DE 19801, Amount Awarded: $19,701.00
Community Service Network Inc., 52 Broadway, Stoneham, MA 01800, Amount Awarded: $17,962.00
Consumer Credit Counseling Service of Greater Washington, 15847 Crabbs Branch Way, Rockville, MD 20855, Amount Awarded: $14,485.00
Consumer Credit Counseling Service of the Kanawha Valley, 8 Capitol Street, Suite 200, Kanawha Valley, Charleston, WV 25301, Amount Awarded: $7,529.00
Cortland Housing Assistance Council, Inc., 159 Main Street, Cortland, NY 13045, Amount Awarded: $12,746.00
County Commissioners of Carroll County, 10 Distillery Drive, Suite 101, Westminster, MD 21157–5194, Amount Awarded: $17,383.00
Credit Counseling Centers, Inc., 111 Westcott Road, South Portland, ME 04106, Amount Awarded: $13,905.00
Cypress Hills Local Development Corp., 625 Jamaica Avenue, Kings County, Brooklyn, NY 11208, Amount Awarded: $20,860.00
Detroit Non-Profit Housing Corporation, 1200 Sixth Street, Suite 404, Detroit, MI 48226, Amount Awarded: $6,950.00
Druid Heights Community Development Corporation, 1821 McCulloh Street, Baltimore, MD 21217, Amount Awarded: $14,485.00
Fair Housing Contact Service, 333 South Main Street, Suite 300, Akron, OH 44308, Amount Awarded: $7,529.00
Family and Children's Association, 336 Fulton Avenue, Hempstead, NY 11550, Amount Awarded: $19,701.00
Family Service—Upper Ohio Valley, 51 Eleventh Street, Wheeling, WV 26003, Amount Awarded: $5,790.00
Fayette County Community Action Agency, Inc., 140 N. Beeson Avenue, Uniontown, PA 15401, Amount Awarded: $6,950.00
Garfield Jubilee Association, Inc., 5138 Penn Avenue, Pittsburgh, PA 15224, Amount Awarded: $15,000.00
Garrett County Community Action Committee, Inc., 104 E. Center Street, Oakland, MD 21550, Amount Awarded: $15,644.00
Govans Economic Management Senate, Inc., 4324 York Road, Suite 203, Baltimore, MD 21212, Amount Awarded: $17,383.00
Greater Boston Legal Services, Inc., 197 Friend Street, Boston, MA 02114, Amount Awarded: $18,542.00
Greater Erie Community Action Committee, 18 West 9th Street, Erie, PA 16501, Amount Awarded: $12,746.00
Harford County, 15 South Main Street, Suite 106, Harford County, Bel Air, MD 21014, Amount Awarded: $12,166.00
Harlem Park Revitalization Corporation, 1017 Edmondson Avenue, Baltimore, MD 21223, Amount Awarded: $15,064.00
Hill Development Corporation of New Haven, 649 Howard Avenue, New Haven, CT 06519, Amount Awarded: $11,007.00
Home Partnership, Inc., 1221 B Brass Mill Road, Belcamp, MD 21017, Amount Awarded: $15,000.00
Homes on the Hill Community Development Corporation, 12 South Terrace Avenue, Columbus, OH 43204, Amount Awarded: $5,211.00
Housing Authority of the City of Paterson, 60 Van Houten Street, Paterson, NJ 07509, Amount Awarded: $5,790.00
Housing Authority of the County of Butler, 114 Woody Drive, Butler, PA 16001, Amount Awarded: $20,860.00
Housing Coalition of Central Jersey, 78 New Street, New Brunswick, NJ 08901, Amount Awarded: $12,166.00
Housing Consortium for Disabled Individuals, 4701 Pine Street, Box 28, Philadelphia, PA 19143, Amount Awarded: $15,064.00
Housing Council of York, Inc., 116 North George Street, York County, York, PA 17401, Amount Awarded: $16,223.00
Housing Counseling Services, Inc., 2430 Ontario Road, NW., Washington, DC 20009, Amount Awarded: $19,122.00
Housing Initiative Partnership, Inc., 4310 Gallatin Street, 3rd Floor, Hyattsville, MD 20781, Amount Awarded: $20,281.00
Housing Opportunities Made Equal of Richmond, Inc., 2201 West Broad Street, Suite 200, Richmond, VA 23220, Amount Awarded: $20,860.00
Jamaica Housing Improvement, Inc, 161–10 Jamaica Avenue, Suite 601, Jamaica, NY 11432, Amount Awarded: $19,701.00
Jersey Counseling & Housing Development, Inc., 1840 South Broadway, Camden City, NJ 08104, Amount Awarded: $13,905.00
Kanawha Institute for Social Research and Action, 124 Marshall Avenue, Dunbar, WV 25064, Amount Awarded: $17,383.00
Long Island Housing Services, Inc., 3900 Veterans Memorial Highway, Suite 251, Bohemia, NY 11716, Amount Awarded: $12,746.00

Lutheran Housing Corporation, 13944 Euclid Avenue, Suite 208, East Cleveland, OH 44112, Amount Awarded: $5,211.00
Lynchburg Community Action Group, Inc., 926 Commerce Street, Lynchburg, VA 24504, Amount Awarded: $9,268.00
Margert Community Corporation, 1931 Mott Avenue, Room 412, Far Rockaway, NY 11691, Amount Awarded: $17,962.00
Marshall Heights Community Dev., Org, 3939 Benning Road, NE., Washington, DC 20019, Amount Awarded: $13,325.00
Maryland Rural Development Corporation, P.O. Box 4848, Annapolis, MD 21403, Amount Awarded: $10,427.00
Massillon Urban League, 325 Third Street, SE., Massillon, OH 44646, Amount Awarded: $18,542.00
Metro Interfaith Services, Inc., 21 New Street, Binghamton, NY 13903, Amount Awarded: $15,000.00
Michigan Housing Counselors, Inc., 237 S.B. Gratiot Avenue, Mt. Clemens, MI 48043, Amount Awarded: $5,790.00
Mid-Ohio Regional Planning Commission, 285 East Main Street, Franklin County, Columbus, OH 43215–5272, Amount Awarded: $20,281.00
Monmouth County Board of Chosen Freeholders, P.O. Box 3000, Freehold, NJ 07728, Amount Awarded: $14,485.00
Ncall Research, Inc., 20 East Division Street, P.O. Box 1092, Dover, DE 19903–1092, Amount Awarded: $19,122.00
Near Northeast Community Improvement Corporation, 1326 Florida Avenue, NE.. Washington, DC 20002, Amount Awarded: $12,746.00
Neighborhood House, Inc., 1218 B Street, New Castle County, Wilmington, DE 19801, Amount Awarded: $15,644.00
Neighborhood Housing Services of New Britain, Inc., 223 Broad Street, New Britain, CT 06053, Amount Awarded: $18,542.00
Neighborhood Housing Services of NYC, 121 W. 27th Street, 4th Floor, New York, NY 10001, Amount Awarded: $10,427.00
Neighbors Helping Neighbors, Inc., 443 39th Street, Brooklyn, NY 11232, Amount Awarded: $22,020.00
Northfield Community LDC of SI, Inc., 160 Heberton Avenue, Staten Island, NY 10302, Amount Awarded: $13,905.00
Northwest Counseling Service, Inc., 5001 North Broad Street, Philadelphia, PA 19141, Amount Awarded: $19,701.00
Northwest Michigan Human Services Agency, Inc., 3963 Three Mile Rd., Traverse City, MI 49686, Amount Awarded: $16,223.00
Nueva Esperanza, 4261 North 5th Street, Philadelphia, PA 19140, Amount Awarded: $7,529.00
O.C.E.A.N., Inc., 40 Washington Street, Tom River, NJ 08754, Amount Awarded: $8,688.00
Oakland County Michigan, 1200 North Telegraph Road, Oakland County, Pontiac, MI 48341–0414, Amount Awarded: $20,281.00
Open Housing Center, Inc., 45 John Street, Suite #308, New York, NY 10038, Amount Awarded: $5,790.00
Opportunities for Chenango, Inc., P.O. Box 470, 44 West Main Street, Norwich, NY 13815–0470, Amount Awarded: $16,640.00
Philadelphia Council for Community Advancement, 100 North 17th Street, Suite 700, Philadelphia, PA 19107, Amount Awarded: $20,860.00
Phoenix Non-Profit Housing Corp., 1640 Porter Street, Detroit, MI 48216, Amount Awarded: $5,211.00
Phoenixville Homes, P.O. Box 67, Spring City, PA 19475, Amount Awarded: $5,790.00
Piedmont Housing Alliance, 2000 Holiday Drive, Suite 200, Charlottesville, VA 22901, Amount Awarded: $9,848.00
Pine Tree Legal Assistance, Inc., 88 Federal Street, Portland, ME 04112, Amount Awarded: $17,962.00
Plymouth Redevelopment Authority, 11 Lincoln Street, Plymouth, MA 02360, Amount Awarded: $16,223.00
Prince William County, 8033 Ashton Avenue, Suite 105, Manassas, VA 20109, Amount Awarded: $9,848.00
Pro-Home, Inc., 45 School Street, Taunton, MA 02780, Amount Awarded: $15,644.00
Putnam County Housing Corporation, 11 Seminary Hill Road, Carmel, NY 10512, Amount Awarded: $19,701.00
Quincy Community Action Programs, Inc., 1509 Hancock Street, Norfolk County, Quincy, MA 02169, Amount Awarded: $17,962.00
Roanoke Redevelopment and Housing Authority, 2624 Salem Turnpike, NW., P.O. Box 6359, Roanoke, VA 24107, Amount Awarded: $8,688.00
Rockland Housing Action Coalition, Inc, 747 Chestnut Street, Chestnut Ridge, NY 10977, Amount Awarded: $15,644.00
Roots of Mankind Corporation, Park Place Professional Center, 5835 Allentown Road, Suitland, MD 20746, Amount Awarded: $9,848.00
Rural Sullivan Housing Corporation, P.O. Box 1497, Monticello, NY 12701, Amount Awarded: $15,000.00
Rural Ulster Preservation Company, Inc., 289 Fair Street, Ulster County, Kingston, NY 12401, Amount Awarded: $17,383.00
Schuylkill Community Action, 206 North Second Street, Pottsville, PA 17901, Amount Awarded: $17,962.00
Shore Up, Inc., 520 Snow Hill Road, P.O. Box 430, Salisbury, MD 21803, Amount Awarded: $15,644.00
Somerset County Coalition on Affordable Housing, One West Main Street, 2nd Floor, Somerville, NJ 08876, Amount Awarded: $21,440.00
South Bronx Action Group, Inc., 384 149th Street, Bronx, NY 10455, Amount Awarded: $5,211.00
Southeast Community Development Corporation, 10 South Wolfe Street, Baltimore, MD 21231, Amount Awarded: $21,440.00
Southside Community Development & Housing Corp., 1624 Hull Street, Richmond, VA 23224, Amount Awarded: $8,688.00
St. Ambrose Housing Aid Center, 321 East 25th Street, Baltimore, MD 21218, Amount Awarded: $13,325.00
St. James Community Development Corporation, 260 Broadway, Suite 300, Newark, NJ 07104, Amount Awarded: $13,905.00
Tabor Community Services Inc., 439 East King Street, Lancaster, PA 17602, Amount Awarded: $16,223.00
Telamon Corporation, 4913 Fithzhugh Avenue, Suite 202, Richmond, VA 23230, Amount Awarded: $6,370.00
The Fair Housing Council of Capital Region, Inc., 2100 North Sixth Street, Dauphin County, Harrisburg, PA 17110, Amount Awarded: $5,211.00
The Housing Council in the Monroe County Area, 183 East Main Street, Suite 1100, Rochester, NY 14604, Amount Awarded: $20,281.00
The Trehab Center, 10 Public Avenue, P.O. Box 366, Montrose, PA 18801, Amount Awarded: $20,000.00
The Way Home, 214 Spruce Street, Manchester, NH 03103, Amount Awarded: $22,020.00
Total Action Against Poverty (TAP), 145 Campbell Avenue, SW., Roanoke, VA 24001–2868, Amount Awarded: $20,281.00
Trcil Services, Inc., 900 Rebecca Avenue, Wilkinsburg, PA 15221, Amount Awarded: $13,325.00
Tri-Churches Housing, Inc., 815 Scott Street, Baltimore, MD 21230, Amount Awarded: $14,000.00
Tri-County Community Action Program, 30 Exchange Street, Berlin, NH 03570, Amount Awarded: $12,746.00
Unemployment Information Center, 1201 Chestnut Street, Suite 702, Philadelphia, PA 19107, Amount Awarded: $14,485.00
United Neighborhood Centers of Lackawanna County, Inc., 425 Alder Street, Scranton, PA 18505, Amount Awarded: $6,370.00
University Legal Services, 300 I Street, NE., Suite 202, Washington, DC 20002, Amount Awarded: $6,370.00
Urban League of Rhode Island, Inc., 246 Prairie Avenue, Providence County, Providence, RI 02905, Amount Awarded: $16,803.00
Washington County Community Action Council, Inc., 101 Summit Avenue, Hagerstown, MD 21740, Amount Awarded: $17,962.00
West Harlem Group Assistance, Inc., 1524/28 Amsterdam Avenue, New York, NY 10031, Amount Awarded: $17,962.00
Westchester Residential Opportunities, Inc., 470 Mamaroneck Avenue, Suite 410, White Plains, NY 10605, Amount Awarded: $19,701.00
YWCA of New Castle County, 233 King Street, Wilmington, DE 19801, Amount Awarded: $20,000.00
Santa Ana (Colonias)
Community Development Corp. of Brownsville, 901 E. Levee Street, Brownsville, TX 78520, Amount Awarded: $24,800.00
West Tennessee Legal Services, 210 W Main Street, Jackson, TN 38301, Amount Awarded: $225,200.00
Santa Ana (HOC)
Administration of Resources and Choices, 209 South Tucson Blvd., P.O. Box 86802, Tucson, AZ 85754, Amount Awarded: $38,232.00
CCCS of Alaska, 208 East 4th Avenue, Anchorage, AK 99501, Amount Awarded: $94,565.00

CCCS of Mid Counties, 2575 Grand Canal Blvd, Suite 100, Stockton, CA 95207, Amount Awarded: $40,841.00
CCCS of Orange County, P.O. Box 11330, 1920 Old Tustin Avenue, Santa Ana, CA 92711–1330, Amount Awarded: $15,207.00
CCCS of San Diego and Imperial Counties, 1550 Hotel Circle N., Suite 110, San Diego, CA 92108–2907, Amount Awarded: $33,354.00
CCCS of South Nevada, 3650 S. Decatur, Suite 30, Las Vegas, NV 89103, Amount Awarded: $40,841.00
Community Action Agency, 124 New 6th Street, Lewiston, ID 83501, Amount Awarded: $56,523.00
Community Housing & Credit Counseling Center (CHCCC), 1001 Willow Street, Chico, CA 95928, Amount Awarded: $10,142.00
Community Housing Resource Center, 3801–A Main Street, Vancouver, WA 98663, Amount Awarded: $58,724.00
Consumer Credit Counselors of Kern County, Inc., 5300 Lennox Avenue, Suite 200, Bakersfield, CA 93309, Amount Awarded: $100,000.00
County of Santa Barbara Housing Authority, 815 W. Ocean Avenue, P.O. Box 397, Lompoc, CA 93438–0397, Amount Awarded: $7,533.00
County of Santa Cruz Housing Authority, 2160 41st Avenue, Capitola, CA 95010–2060, Amount Awarded: $18,500.00
Eden Council for Hope and Opportunity, 770 A Street, Hayward, CA 94541, Amount Awarded: $28,700.00
Fair Housing Council of Orange County, 201 S. Broadway, Santa Ana, CA 92701, Amount Awarded: $45,000.00
Fremont Public Association, P.O. Box 31151, Seattle, WA 98103, Amount Awarded: $75,000.00
Inland Fair Housing and Mediation Board, 1005 Begonia Avenue, Ontario, CA 91762, Amount Awarded: $65,485.00
Labor's Community Service Agency, 5818 N. 7th Street #100, Phoenix, AZ 85014, Amount Awarded: $51,350.00
Legal Aid Society of Hawaii, 924 Bethel Street, Honolulu, HI 96813, Amount Awarded: $25,000.00
Neighborhood House Association, 5660 Copley Drive, San Diego, CA 92111, Amount Awarded: $7,533.00
Open Door Counseling Social Service, 34420 SW Tualatin Valley Highway, Hillsboro, OR 97123, Amount Awarded: $25,492.00
Pierce County Department of Community Services, 8811 South Tacoma Way, Suite 201, Lakewood, WA 98499–4588, Amount Awarded: $30,000.00
Portland Housing Center, 3233 NE Sandy Boulevard, Portland, OR 97232, Amount Awarded: $40,000.00
Project Sentinel, 430 Sherman Avenue, Suite 308, Palo Alto, CA 94306, Amount Awarded: $75,000.00
Sacramento Neighborhood Housing Services, Inc., 3453 5th Avenue, Sacramento, CA 95817, Amount Awarded: $57,000.00
San Diego Home Loan Counseling Service, 3180 University Avenue, Suite 430, San Diego, CA 92104, Amount Awarded: $100,000.00
Spokane Neighborhood Action Program, 2116 East First Avenue, Spokane, WA 99202, Amount Awarded: $77,434.00
Springboard, Non-Profit Consumer Credit Mgmt., 6370 Magnolia Avenue, Suite 200, Riverside, CA 92056, Amount Awarded: $97,097.00
Umpqua Community Action Network, 2448 West Harvard, Roseburg, OR 97470, Amount Awarded: $30,000.00

[FR Doc. 03–540 Filed 1–10–03; 8:45 am]
BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Multistate Conservation Grant Program; Priority List for Conservation Projects.

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of priority list.

SUMMARY: We, the U.S. Fish and Wildlife Service, are publishing, in this document, the priority list submitted by the International Association of Fish and Wildlife Agencies for the Multistate Conservation Grant Program. This notice is required by the Wildlife and Sport Fish Restoration Programs Improvement Act of 2000. Grants may be made from this priority list.

FOR FURTHER INFORMATION CONTACT: Chris McKay, National Grants Manager, Division of Federal Aid, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Mail Stop MBSP–4020, Arlington, Virginia 22203; phone (703) 358–2156; or e-mail *chris_mckay@fws.gov.*

SUPPLEMENTARY INFORMATION: The Wildlife and Sport Fish Restoration Programs Improvement Act of 2000 (Pub. L. 106–408) (Improvement Act) established a Multistate Conservation Grant Program within the Federal Aid in Wildlife Restoration Act (16 U.S.C. 669–669k) and Federal Aid in Sport Fish Restoration Act (16 U.S.C. 777–777m) (Restoration Acts). The Improvement Act authorizes grants of up to $3 million annually from funds available under each of the Restoration Acts, for a total of up to $6 million annually. Grants may be made from a priority list of projects submitted by the International Association of Fish and Wildlife Agencies (IAFWA), which represent the State fish and wildlife agencies. The Service Director, exercising the authority of the Secretary, need not fund all recommended projects, but may not fund projects that are not recommended.

To be eligible for consideration by the IAFWA, a project must benefit fish and/or wildlife conservation in at least 26 States, a majority of the States in a Fish and Wildlife Service Region, or a regional association of State fish and wildlife agencies. Grants may be made to a State or group of States, to non-governmental organizations, and, for the purpose of carrying out the National Survey of Fishing, Hunting and Wildlife-Associated Recreation, the U.S. Fish and Wildlife Service.

The priority list of projects submitted by the IAFWA follows:

Project title	Applicant	Wildlife funds (in dollars)	Sport fish funds (in dollars)
Wildlife Values in the West	Western Association of Fish & Wildlife Agencies (WAFWA).	223,961	223,961
Step Outside	National Shooting Sports Foundation	92,600	92,600
Becoming an Outdoors Woman	University of Wisconsin—Stevens Point.	93,050	93,050
Women in the Outdoors	National Wild Turkey Federation	77,500	77,500
The Trailblazer Adventure Program	U.S. Sportsmen's Alliance Foundation.	80,000	80,000
Automated Wildlife Data Systems Program Coordination	IAFWA Automated Wildlife Data Systems Task Force.	81,840	81,840
Provide Adaptive Equipment to State Fish & Game Departments to Assist Physically Challenged Individuals in Traditional Outdoor Activities.	Paralyzed Veterans of America	44,000	
Measuring Public Opinion of Fish and Wildlife Agencies in 13 Northeast States.	Northeast Conservation Information & Education Association.	175,000	175,000
Continued Support for State ''Hooked on Fishing—Not on Drugs'' Programs	Future Fisherman Foundation		51,500

Project title	Applicant	Wildlife funds (in dollars)	Sport fish funds (in dollars)
''The Northern Bobwhite Conservation Initiative: Moving the Plan Forward''	Tennessee Wildlife Resources Agency.	225,000	
Chronic Wasting Disease Prevention and Management Planning	IAFWA Wildlife Health Task Force	357,500	
Fish & Wildlife Reference Service: Managing and Providing Information to State Wildlife and Natural Resources Agencies.	KRA Corporation	249,779	249,779
*Evaluation of the Fish and Wildlife Reference Service	Virginia Polytechnic Institute & State University.	20,356	20,356
Data Management Support for the Chronic Wasting Disease Initiative	Virginia Polytechnic Institute & State University.	92,154	
Unwanted Aquatic Species: A Two-Year Project to Address State, Regional and National Aquatic Invasive Species Issues.	IAFWA Fisheries & Water Resources Policy Committee.		391,840
Conservation Communication Team	IAFWA Education, Outreach & Diversity Committee and Point to Point Communications.	114,000	114,000
National 4–H Sportfishing Initiative	National 4–H Sportfishing Committee of the Texas 4–H Youth Development Foundation.		150,623
Creating Master Naturalist programs	Texas Parks & Wildlife Department	97,325	97,325
National Housing Incident Clearinghouse	International Hunter Education Association.	66,800	
Wildlife Law News Weekly Alert and Online Services	Center for Wildlife Law at the University of New Mexico Institute of Public Law.	40,500	40,500
Management Assistance Team	IAFWA	408,272	408,272
Sage Grouse Data Management: Making States' Data Available to Conservation Planning Teams.	WAFWA Sage Grouse and Columbian Sharp-tailed Grouse Technical Committee.	27,800	
Bird Conservation for the Nation: Support for State All-Bird Conservation Efforts.	IAFWA Bird Conservation Committee	214,520	
Assessing Ownership, Use and Modifications of Trapping Systems, and Familiarity of Trapping BMPs by Trappers in the United States.	IAFWA Furbearer Resources Task Force; Education, Outreach & Diversity Committee; and Wildlife Resources Policy Committee.	118,800	
Development of a Detailed National Conservation Need for a National Fishing, Hunting, and Wildlife-Associated Recreation Survey.	IAFWA National Grants Committee	125,000	125,000
Totals		3,025,757	2,473,146

*Denotes project submitted pending a final decision of the IAFWA Executive Committee, which is expected December 13, 2002.

The total cost of the proposed Wildlife Restoration projects is more than the amount allocated by Congress for this program. If we were to fund all of these projects, funds allocated, but not spent, from Fiscal Year (FY) 2002 would be used to make up the difference for FY 2003. The rest of the funding would come from FY 2004 and FY 2005 allocations because six of these projects are multi-year projects.

We expect to decide by January 10, 2003, which of the listed projects will be awarded a FY 2003 Multistate Conservation Grant. We will also publish the list of the awards in the **Federal Register** immediately afterwards.

Dated: November 27, 2002.

Steve Williams,

Director.

[FR Doc. 03–565 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Endangered and Threatened Wildlife and Plants; Guidance on Streamlining Section 7 Consultation on Hazardous Fuels Treatment Projects

AGENCIES: Fish and Wildlife Service (USFWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of availability.

SUMMARY: The Fish and Wildlife Service and National Marine Fisheries Service (Services) announce the availability of guidance on alternative approaches for streamlining section 7 consultation on hazardous fuels treatment projects. This guidance presents options for land management agencies and the Services for streamlining consultation conducted under section 7 of the Endangered Species Act of 1973, as amended (ESA). The guidance encourages early coordination and cooperation at the project planning stage, ''batching'' of similar projects, and use of design criteria or screens to streamline the consultation process while minimizing the potential for adverse effects to listed species and their habitats at both the landscape and site-specific levels. All procedures identified in this document are consistent with the requirements of section 7(a)(2) of the ESA and its implementing regulations (50 CFR part 402).

ADDRESSES: Electronic copies of this guidance may be obtained from the USFWS World Wide Web consultation home page at *http://endangered.fws.gov/consultations/streamlining.pdf.* Written copies of this guidance may be obtained from the Chief of the Division of Consultation, Habitat Conservation Planning, Recovery, and State Grants, United States Fish and Wildlife Service, 4401

North Fairfax Drive, Room 420, Arlington, Virginia 22203, or the Chief of the Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Rick Sayers, Chief, Branch of Consultation and Habitat Conservation Planning (Telephone 703/358–2106, Facsimile 703/358–1735).

SUPPLEMENTARY INFORMATION:

Background

In response to recent damaging wildland fires, the Departments of the Interior and Agriculture have developed the National Fire Plan, which, among other things, calls for a substantial increase in the number of forested acres treated annually to reduce hazardous fuels. With this effort comes an increased workload related to compliance with various environmental laws and regulations such as the Endangered Species Act of 1973, as amended (ESA).

Under section 7(a)(2) of the ESA, each Federal agency must, in consultation with the Services, ensure that any action it funds, authorizes, or carries out will not jeopardize the continued existence of listed species or adversely modify designated critical habitat. Thus land management agencies must complete section 7 consultation in accordance with procedures identified at 50 CFR part 402 for each fuels treatment project they propose prior to implementation. It is essential that these consultations be carried out as quickly and efficiently as possible to promote the timely implementation of preventative actions that will help to ensure public safety.

This is one of the goals of the President's recently announced Healthy Forest Initiative, which will implement core components of the National Fire Plan. As part of this initiative the Services have developed the subject guidance document to assist in streamlining the section 7 consultation process for hazardous fuels treatment projects. This guidance is founded on the principle that by engaging in early planning and coordination the Services and action agencies can identify and address potential conflicts between fuels treatment projects and listed species conservation during the project design phase while there is the maximum flexibility to modify projects. Incorporating listed species' needs into the project design process, typically in the form of the development of design criteria, is one of the most effective methods of streamlining the section 7 consultation process.

The guidance provides options for both fire management agencies and the Services and is designed to contain sufficient flexibility to meet the individual needs of varied circumstances across the landscape. While the guidance presents no new or additional requirements, it takes several streamlining techniques that have been successfully used in different areas of the country and under different circumstances, such as the development of design criteria or ''screens,'' the batching of similar projects, and the use of programmatic consultations, and offers ways they can be used individually or in combination to effectively streamline the section 7 consultation process. All procedures identified in the guidance document are consistent with the requirements of section 7(a)(2) of the Act and its implementing regulations (50 CFR part 402).

Finally, despite the best of intentions, at times the section 7 consultation process has been unduly slowed by disputes among consulting agencies. In an effort to reduce the potential for such delays, the guidance provides a dispute resolution process. This process involves elevation procedures designed to provide timely resolution to such disputes.

The Services are publishing this notice in order to advise other agencies and the public of the existence of the subject guidance and encourage its use.

Authority: The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 8, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Dated: October 11, 2002.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03–577 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–22 and 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Endangered and Threatened Wildlife and Plants; Guidance on Evaluating the Net Benefit of Hazardous Fuels Treatment Projects

AGENCIES: Fish and Wildlife Service (USFWS), Interior; National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of availability.

SUMMARY: The Fish and Wildlife Service and National Marine Fisheries Service (Services) announce the availability of guidance on evaluating the net benefit of projects that reduce hazardous fuels. The guidance recommends that managers evaluate the net benefits of such projects during the consultation process conducted under section 7 of the Endangered Species Act of 1973, as amended (Act). While reducing hazardous fuels may have short- or long-term adverse effects on some species, the long-term net benefit can be substantial and sustaining to the species. This guidance will help ensure consistency in the approach the Services use to analyze the risks and benefits of implementing projects to reduce hazardous fuels.

ADDRESSES: Electronic copies of this guidance may be obtained from the USFWS World Wide Web Consultation Home Page at: *http://endangered.fws.gov/consultations/forestplan.html.* Written copies of this guidance may be obtained from the Chief of the Division of Consultation, Habitat Conservation Planning, Recovery, and State Grants, United States Fish and Wildlife Service, 4401 North Fairfax Drive, Room 420, Arlington, Virginia 22203, or the Chief of the Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Rick Sayers, Chief, Branch of Consultation and Habitat Conservation Planning (Telephone 703/358–2106, Facsimile 703/358–1735).

SUPPLEMENTARY INFORMATION:

Background

In response to recent damaging wildland fires, the Departments of the

Interior and Agriculture have developed the National Fire Plan, which, among other things, calls for a substantial increase in the number of forested acres treated annually to reduce hazardous fuels. As part of this effort, agencies must consult with the Services, in accordance with section 7 of the Act and comply with other applicable requirements of various environmental laws and regulations.

Under section 7(a)(2) of the Act, each Federal agency must, in consultation with the Services, ensure that any action it funds, authorizes, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or adversely modify designated critical habitat. Therefore, Federal land management agencies must complete section 7 consultation in accordance with procedures identified at 50 CFR part 402 before implementing any project to reduce hazardous fuels. It is essential that these consultations be carried out as quickly and efficiently as possible to promote the timely implementation of preventative actions that will help to ensure public safety.

Preventative actions that will help ensure public safety are among the goals of the President's recently announced Healthy Forest Initiative, which will implement core components of the National Fire Plan. As part of the Healthy Forest Initiative, the Services have developed a guidance document to ensure consistency in the approach the Services use to analyze the risks and benefits of implementing actions to reduce hazardous fuels during the section 7 consultation process.

Some projects may have short-term adverse effects on some endangered and threatened listed species; however, at the same time, these projects present opportunities for significant long-term benefits to those species and their habitats. The guidance document encourages the Services to evaluate and balance the long-term benefits of fuels reduction projects, including the benefits of restoring the natural fire regimes and native vegetation, as well as the long-term risks of catastrophic wildfire, against any short- or long-term adverse effects.

All procedures identified in the guidance document are consistent with the requirements of section 7(a)(2) of the Act and its implementing regulations (50 CFR part 402).

The Services are publishing this notice in order to advise other agencies and the public of the availability of the guidance document and to encourage its use.

Authority: The authority for this action is the Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 20, 2002.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

Dated: December 27, 2002.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03–578 Filed 1–10–03; 8:45 am]

BILLING CODE 3510–22–P; 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–070–033–1232–EA, SRP–070–03–01 and SRP–070–03–02]

Notice of Temporary Closure of Selected Public Lands in La Paz County, Arizona, During the Operation of the 2003 Parker 250 and Parker 425 Desert Races

AGENCY: Bureau of Land Management.

ACTION: Temporary Closure of Selected Public Lands in La Paz County, Arizona, during the operation of the 2003 Parker 250 and Parker 425 Desert Races.

SUMMARY: The Bureau of Land Management (BLM) Lake Havasu Field Office announces the temporary closure of selected public lands under its administration in La Paz County, Arizona. This action is being taken to help ensure public safety and prevent unnecessary environmental degradation during the officially permitted running of the 2003 Parker 250 and Parker 425 Desert Races. This closure is effective during the Parker 250 Race from 6 p.m. MST on January 3, 2003 and ending at 8 p.m. MST on January 5, 2003; in addition, the closure is effective for the Parker 425 Race, beginning at 10 a.m. (MST) February 6, 2003 and ending at midnight (MST) on February 8, 2003.

All public lands, including county maintained roads and highways located on public lands, that are located within two miles of the designated racecourse are subject to this temporary closure. Official maps maintained by the BLM's Lake Havasu Field Office define the designated racecourse.

The following acts are prohibited during the temporary closure:

1. Driving or being present on designated racecourse. This restriction does not apply to race participants, race officials and emergency vehicles.

2. Vehicle parking or stopping in areas affected by the closure, except where such is specifically allowed (designated spectator areas).

3. Camping in any area, except in the designated spectator areas.

4. Discharge of firearms.

5. Possession or use of any fireworks.

6. Cutting or collecting firewood of any kind, including dead and down wood or other vegetative material.

7. Operating any vehicle (except for registered race vehicles), including off-highway vehicles, which is not registered and equipped for street and highway operation.

8. Operating any vehicle in the area of the closure at a speed of more than 35 mph. This does not apply to registered race vehicles during the race, while on the designated racecourse.

9. Parking any vehicle in violation of posted restrictions.

10. Parking any vehicle in a manner that obstructs or impedes normal traffic movement.

11. Driving any vehicle around or past any ''road closed'' sign or traffic control barrier.

12. Failing to obey any person authorized to direct traffic, including law enforcement officers and designated race officials.

13. Failing to observe Spectator Area quiet hours of 10 PM to 6 AM.

14. Failing to keep campsite or race viewing site free of trash and litter.

15. Allowing any pet or other animal to be unrestrained by a leash of not more than 6 feet in length.

The above restrictions do not apply to emergency vehicles and vehicles owned by the United States, the State of Arizona, or La Paz County. Authority for closure of public lands is found in 43 CFR 8340, subpart 8341; 43 CFR 8360, subpart 8364.1; and 43 CFR 2930. Persons who violate this closure order are subject to arrest and, upon conviction, may be fined not more than $100,000 and/or imprisoned for not more than 12 months (18 U.S.C. 3571(b)(5).

FOR FURTHER INFORMATION CONTACT: Bryan Pittman, District Law Enforcement Ranger, BLM Lake Havasu Field Office, 2610 Sweetwater Avenue, Lake Havasu City, Arizona 86406, (928) 505–1200.

SUPPLEMENTARY INFORMATION: The racecourse is as described in general terms as follows: Beginning at the eastern boundary of the Colorado River Indian Tribe Reservation in Osborne Wash, it runs east along Shea Road, then east along the Parker-Swansea Road to the Central Arizona Project Canal, then north along the CAP Canal, to and along the maintained county road that runs from the east end of Shea Road to Mineral Wash, then southeast along the maintained county road that runs to

Midway, then east along the Transmission Pass Road through State Trust lands located in Butler Valley. The route re-enters public lands for a short distance west of Alamo Lake Road, then re-enters State Trust Lands in Butler Valley, then onto public lands again on the Butler Valley Road northwest of Graham Well and proceeds west to the ''Bouse Y'', which is located north of Bouse, Arizona. The route then proceeds north along the Bouse-Midway Road to Midway. From Midway, it proceeds west along the north boundary of the East Cactus Plain Wilderness Area to the Parker-Swansea Road. It then proceeds west on the Parker-Swansea Road to the CAP Canal, along the north boundary of the Cactus Plain Wilderness Study Area to Osborne, Wash. From there it proceeds west along the Osborne, Wash to the CRIT Reservation boundary.

Dated: October 25, 2002.

Donald Ellsworth,

Field Manager, Lake Havasu Field Office.

[FR Doc. 03–590 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–090–1220–AA]

Notice of Seasonal Closure of Public Lands to Motorized Vehicle Use

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of seasonal closure of certain public lands located in Lincoln County, Wyoming, to all types of motor vehicle use.

SUMMARY: The Record of Decision (ROD) and approved Kemmerer Resource Management Plan (RMP) ROD, dated April 29, 1986, states that big game winter ranges may be closed to minimize stress to wintering animals.

After consulting with the Wyoming Game and Fish Department, all Bureau of Land Management (BLM)-administered public land surface, including existing roads and two-tracks, are closed in the Raymond Mountain Wilderness Study Area (WSA), Slate Creek, Rock Creek, and Bridger Creek winter ranges to all types of motorized vehicle travel (*e.g.*, snowmobiles, all-terrain vehicles, pickups, motorcycles, sport utility vehicles, *etc.*) from January 1, 2003, until April 30, 2003. Use of these areas by nonmotorized means is still allowed. This action is necessary for the protection of crucial winter range habitat for elk, moose, antelope, and mule deer. No motorized vehicle travel into these areas will be allowed unless specifically authorized (in writing) by the authorized officer (BLM Kemmerer Field Manager), except for highways or county roads. Personnel of the Wyoming Game and Fish Department, Department of Agriculture, APHIS, Wildlife Services, Lincoln and Uinta County Sheriff's Offices, and the BLM are exempt from this closure when performing official duties. Operators of existing oil and gas facilities may perform maintenance and pumping, as approved, and livestock operators may perform permitted activities. After April 30, motorized vehicle access is limited to existing roads and two-tracks, as described in the Kemmerer RMP ROD dated April 29, 1986.

SUPPLEMENTARY INFORMATION: The BLM Kemmerer Field Office is responsible for management of crucial winter range habitat located on public lands within Lincoln County. These crucial wildlife winter range habitat areas and the management thereof, are addressed in the Kemmerer RMP. The RMP states that seasonal closures for motorized vehicles may be used to protect big game winter range. Closures will vary depending on conditions and are implemented in coordination with the Wyoming Game and Fish Department (Kemmerer RMP, page 25 and 27). The Raymond Mountain WSA, Slate Creek, Rock Creek, and Bridger Creek areas are crucial wintering ranges for elk, moose, antelope, and mule deer. This seasonal closure is necessary to protect wintering deer, moose, and elk, which are suffering from the effects of a 3-year drought. Low forage production associated with the drought has caused animals to go into winter in very poor condition. Additionally, forage production on winter ranges is also reduced. These impacts to wintering wildlife are currently compounded by significant human activity, such as day and night wildlife observation, photo/videography, snowmobiling, and antler gathering. The use of motorized vehicles during difficult winter periods can increase the number of animals that will die on the winter range and can decrease production of young during the following summer. Therefore, a seasonal closure is necessary to relieve impacts from the use of motorized vehicles on wintering big game animals.

The following BLM-administered lands are included in this closure: The Raymond Mountain WSA is located approximately 15 miles north of Cokeville and contains 32,956 acres. The Slate Creek area includes all BLM-administered lands south of Fontenelle Creek, west and north of Route 189, and east of the crest of Slate Creek Ridge, and contains 111,100 acres. The Rock Creek area includes all BLM-administered lands south of County Road 204 (Pine Creek Road), west of the crest of Dempsey Ridge, west of Fossil Butte National Monument, north and east of Highway 30, and contains 105,750 acres. The Bridger Creek area includes all BLM-administered lands south of Highway 30, west of Fossil Ridge, west of Bear River Divide, north of the Uinta—Lincoln County line, east of the Utah—Wyoming border, and southeast of Highway 89, and contains 98,400 acres.

Maps of these seasonal closure areas will be posted with this notice at key locations that provide access into the closure areas, as well as at the Kemmerer Field Office, 312 Highway 189 North, Kemmerer, Wyoming 83101–9710.

Authority for closure orders is provided in regulation 43 CFR, subparts 8341.2 and 8364.1. Violations of this closure are punishable by a fine not to exceed $1000.00, and/or imprisonment not to exceed 12 months.

DATES: This seasonal closure will be effective from January 1, 2003, until April 30, 2003.

FOR FURTHER INFORMATION CONTACT: Wally Mierzejewski, Outdoor Recreation Planner, or Jim Wright, Wildlife Biologist, Bureau of Land Management, 312 Highway 189 North, Kemmerer, Wyoming 83101, or contact by telephone at 307–828–4500.

Dated: October 10, 2002.

Alan L. Kesterke,

Acting State Director.

[FR Doc. 03–592 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–054–1220–AA; GP–03–0019]

Notice of Closure; Notice of Permanent Motor Vehicle Restriction on Public Lands; Deschutes/Crook County, OR

AGENCY: Bureau of Land Management, Prineville District, Deschutes Resource Area/Field Office.

ACTION: Notice is hereby given that off-highway vehicle (OHV) travel within the Millican Valley OHV Trail System is restricted to designated routes only. The Millican Valley OHV Trail System is located approximately 20 miles East of Bend, Oregon in Crook and Deschutes Counties. Specifically, this closure order

applies to all public lands within the following perimeter description:

Perimeter Description: Beginning at the intersection of State Highway 20 and BLM road #6521, then southeast on Highway 20 to the Horse Ridge summit, then southwest to road #6515–A and northwest. The perimeter then goes south through private property until it reaches road # 6515–AA and south to the junction with road #6515–C, then along road #6515–C south to County Road 2015, then east to County Road 2016. The perimeter then follows the BLM/Forest Service property boundary east, south and east again crossing Forest Service roads 23 and 25 perpendicularly. The perimeter turns north between ranges 14 and 15 east, turning east on the north edge of section 19 of T20S R15E. It follows the BLM/private property boundary north running into the old Bend to Burns road. The perimeter then follows the old road east, continuing into the airstrip and finally Highway 20. At section 32 of T19S R 16E the perimeter follows the BLM/private property boundary north. The perimeter continues along the property boundaries in a generally northeasterly direction until it runs into and follows road #6522 northwest. It then turns north on the section line between 14 and 15 and 10 and 11 and turns west following the northern section lines of 10, 9, 8 and 7 of T19S R16E and section 12 of T19S R15E. The perimeter then turns north again following the section line between 1 and 2 of T19S R 15 E. At this point it follows the contour of West Butte until it runs into the southwest corner of the private property in section 18 of T18S R16E. The perimeter then goes north along the west section line of 7 and 6 to the middle of 6 where it follows the BLM/private property line east and north to the north section line of section 6. It turns north and goes through private property in the east quarter of section 31 in T17S R16E. It again follows the private property boundary east and north through sections 30 and 29. In section 29 it follows an existing road east and north until it meets SW Reservoir Road. The perimeter crosses SW Reservoir Road and follows road # 6555–B in a northwesterly direction until it runs into private property. It follows the private property line west and north to the north quarter of section 35, T16S R15E. Here, it turns west and runs into the high voltage transmission line with steel supports. It follows the transmission line south to the southern section line of section 21, T17S R15E. The perimenter follows section 21 west and continues west on Alfalfa Market Road to the powerline supported by double wooden poles. The perimeter follows this powerline south to its intersection with the previously mentioned transmission line and again goes south following the steel tower transmission line to road #5620–B. The perimeter follows #5620–B until it intersects with #6521 and follows #6521 to the point of beginning.

SUMMARY: The BLM is required to restrict motorized use to designated trails within the Millican Valley OHV Trail System. In addition, there are seasonal restrictions on those portions of the trail system called North and South Millican. North Millican is considered that portion of the trail system between Highway 20 and Kitchen Hill and is closed to OHV's from December 1st through April 30th. South Millican is the area of the trail system south of Highway 20. It is closed to OHV's from December 1st through July 31st. These restrictions are necessary to comply with the federal consent judgment in *Central Oregon Forest Issues Committee, Oregon Natural Desert Association and Oregon Natural Resources Council* v. *James G. Kenna, Deschutes Area Manager, Prineville District, Bureau of Land Management,* Civil Action No. 98–29–ST (D. OR.) that was lodged with the United States District Court for the District of Oregon on November 23, 1999.

This 1999 federal consent judgment resulted from the settlement of a lawsuit between the Oregon Forest Issues Committee and other environmental organizations who took BLM to federal court in 1998, regarding its environmental assessment/management plan for the Millican Valley OHV Trail System. In December 1999, the federal court requested BLM obtain public comments regarding the proposed federal court consent judgment.

Public comments were considered and reviewed by the federal court judge before the consent judgment was finalized. The Millican Valley OHV Trail System interim map was produced as a result.

DATES: This closure will take effect on the date this notice is published in the **Federal Register**. The closure will remain in effect until the BLM modifies or rescinds this order.

ADDRESSES: Bureau of Land Management, Deschutes Resource Area, 3050 NE. 3rd Street, Prineville, OR 97754.

FOR FURTHER INFORMATION CONTACT: Contact Sarah Schartz, OHV Coordinator, 3050 NE. 3rd Street, Prineville, OR 97754. (541) 416–6865.

Discussion of Rules: The public lands affected by this proposed OHV restriction are all lands administered by the BLM within the Millican Valley OHV Trail System. Maps are available at entry points to the trail system as well as BLM and Forest Service offices in Central Oregon. In addition, maps are distributed to OHV dealerships around Central Oregon and they are available on the World Wide Web. Trails are numbered and signed on the ground, as are the seasonal closures.

For the purpose of this restriction ''off-highway vehicle'' is defined as any motorized vehicle capable of, or designed for, travel on or immediately over land, water or other natural terrain, excluding: (1) Any non-amphibious registered motorboat; (2) any military, fire, emergency or law enforcement vehicle while being used for emergency purposes; (3) any vehicle whose use is expressly authorized by the authorized officer, or otherwise officially approved; (4) vehicles in official use; and (5) any combat or combat support vehicle when used in times of national defense emergencies.

Prohibited Acts: Under 43 CFR 8360.0–7 The Bureau of Land Management will enforce the following rules within the Millican Valley OHV Trail System:

a. Operation of an OHV off designated routes is prohibited, and

b. Operation of an OHV within the North Millican portion of the Millican Valley OHV Trail System is prohibited from December 1st through April 30th, and

c. Operation of an OHV within the South Millican portion of the Millican Valley OHV Trail System is prohibited from December 1st through July 31st.

Exemptions: This closure does not apply to persons who are exempt from these rules (including: Federal, State, or local officer or employee in the scope of his or her duties, members of any organized rescue or fire-fighting force in performance of an official duty, and any person authorized in writing by the Bureau of Land Management).

Penalties: The authorities for this closure are section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a) and 43 CFR 8360.0–7. Any person who violates this closure may be fined no more than $1000 or imprisoned for no more than 12 months, or both. Such violations may

also be subject to the higher fines provided for by 18 U.S.C. 3571.

Rachel A. Carver,

Acting, District Manager, Prineville District, Oregon, Bureau of Land Management.

[FR Doc. 03–600 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1310–01; NMNM 105874]

New Mexico: Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease NMNM 105874 for lands in Eddy County, New Mexico, was timely filed and was accompanied by all required rentals and royalties accruing from March 1, 2002, the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of $10.00 per acre or fraction thereof and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and has reimbursed the Bureau of Land Management for the cost of this **Federal Register** notice. The Lessee has met all the requirements for reinstatement of the lease as set out in sections 31(d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate the lease effective March 1, 2002, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

FOR FURTHER INFORMATION CONTACT: Lourdes B. Ortiz, BLM, New Mexico State Office, (505) 438–7586.

Dated: November 22, 2002.

Lourdes B. Ortiz,

Land Law Examiner.

[FR Doc. 03–593 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–930–1430–ET; NMNM 20]

Public Land Order No. 7550; Revocation of Public Land Order No. 4146; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order in its entirety as to 190.36 acres withdrawn to protect the Mexican Duck Habitat Development Project. The withdrawal is no longer needed. The lands will be opened to surface entry and mining.

EFFECTIVE DATE: February 12, 2003.

FOR FURTHER INFORMATION CONTACT: Jeanette Espinosa, BLM New Mexico State Office, 1474 Rodeo Road, Santa Fe, New Mexico 87502, 505–438–7597.

SUPPLEMENTARY INFORMATION: The Mexican Duck has been removed from the threatened and endangered species lists for both the State of New Mexico and the Federal Government. Therefore, the withdrawal is no longer needed.

Order

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 4146, which withdrew 190.36 acres to protect the Mexican Duck Habitat Development Project, is hereby revoked in its entirety as it affects the following described lands:

New Mexico Principal Meridian

T. 25 S., R. 21 W.,
Sec. 31, lots 3 and 4.
T. 26 S., R. 22 W.,
Sec. 1, lots 8 and 9, SW¼NE¼, NW¼SE¼.

The area described contains 190.36 acres, in Hidalgo County.

2. At 10 a.m. on February 12, 2003, the lands will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on February 12, 2003, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on February 12, 2003, the lands will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the lands included in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: December 23, 2002.

Rebecca W. Watson,

Assistant Secretary—Land and Minerals Management.

[FR Doc. 03–598 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF THE INTERIOR

Bureau Of Land Management

[NV–930–1430–FM; N–74701]

Esmeralda County, Nevada; Notice of Realty Action: Termination of Segregation; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice of termination of segregation.

SUMMARY: This notice terminates the segregative effect on land known as the Chiatovich Land Exchange and opens the land to operation under the public land laws and the mining laws.

EFFECTIVE DATE: February 12, 2003.

ADDRESSES: Written comments should be addressed to: Bureau of Land Management, William S. Fisher, Assistant Field Manager, Tonopah Field Station, Post Office Box 911, Tonopah, NV 89049–0911.

FOR FURTHER INFORMATION CONTACT: Wendy Barlow, Realty Specialist, at the above address or telephone (775) 482–7806.

SUPPLEMENTARY INFORMATION: Pursuant to the authority delegated by appendix 1 of Bureau of Land Management Manual 1203 dated November 25, 1998, that portion identified below as being part of the Chiatovich Exchange is hereby terminated in its entirety:

Mount Diablo Meridian, Nevada

Silver Peak

T. 2 S., R. 39 E.,
Sec. 15, S½SE¼;
Sec. 21, S½NE¼, SE¼;
Sec. 22, E½SE¼NE¼SW¼, N½NW¼NW¼SW¼, S½N½SW¼NW¼SW¼, S½SW¼NW¼SW¼, SE¼NW¼SW¼, N½SW¼SW¼, W½SW¼SW¼SW¼, (portion of) NE¼SW¼SW¼SW¼, (portion of) SE¼SW¼SW¼SW¼, E½E½SE¼SW¼, SE¼SW¼SW¼.

Containing 440.0 acres, more or less in Esmeralda County.

Goldfield

T. 2 S., R. 42 E.,
Sec. 35, E½NW¼, NE¼SW¼.

Containing 20.0 acres more or less in Esmeralda County.

Notation to the public land records effective on October 22, 2001, segregated the proposed exchange lands from all other forms of appropriation under the public land laws, including location under the United States mining laws and the mineral leasing laws. The exchange proposal has been withdrawn, therefore, is no longer needed. At 9 a.m. on February 12, 2003, the lands described above will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: November 13, 2002.

William S. Fisher,

Assistant Field Manager, Tonopah.

[FR Doc. 03–595 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ES; N–76308]

Esmeralda County, Nevada; Notice of Realty Action: Recreation and Public Purposes (R&PP) Act Classification; Nevada

AGENCY: Bureau of Land Management.

ACTION: Recreation and Public Purposes (R&PP) Act Classification.

SUMMARY: The following public lands in Dyer, Esmeralda County, Nevada, have been examined and found suitable for classification for lease or conveyance to the Esmeralda County Parks and Recreation Department under the provisions of the Recreation and Public Purposes (R&PP) Act, as amended (43 U.S.C. 869 *et seq.*), and under sec. 7 of the Taylor Grazing Act, 43 U.S.C. 315 f, and E.O. 6910. The Esmeralda County Parks and Recreation Department proposes to use the land for community expansion development of the fairground and rodeo complex, recreational complex, and the lands for a public trails park.

Mount Diablo Meridian, Nevada

T. 3 S., R. 35 E.,
Sec. 9, NW¼NE¼, NW¼, SE¼SW¼, W½SW¼.

Containing 310 acres more or less.

This action is a motion by the Bureau of Land Management to make available lands identified and designated as disposal lands under the Tonopah Resource Management Plan, dated October 6, 1997, and are not needed for Federal purposes. Lease or conveyance of the lands for recreational or public purpose use is consistent with current BLM land use planning and would be in the public interest.

The lease or conveyance of the lands will be subject to the following terms, conditions, and reservations:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391 (43 U.S.C. 945).

2. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

5. A right-of-way authorized under the Act of October 21, 1976, 90 Stat. 2776 (43 U.S.C. 1761) for powerline purposes granted to Valley Electric Association, its successor or assignees, by right-of-way No. N–55278.

6. A right-of-way authorized under the Act of October 21, 1976, 90 Stat. 2776 (43 U.S.C. 1761) for powerline purposes granted to Valley Electric Association, its successor or assignees, by right-of-way No. N–051579.

7. A right-of-way authorized under the Act of October 21, 1976, 90 Stat. 2776 (43 U.S.C. 1761) for telephone and telegraph purposes granted to Nevada Bell, its successor or assignees, by right-of-way No. N–035353. Expires June 29, 2032.

8. A right-of-way authorized for a Federal Aid Highway (sec 107) under the Act of August 27, 1958, as amended, 72 Stat. 892 (23 U.S.C. 107(D)), by right-of-way No. NVCC–0 020855 issued to the Nevada Department of Transportation.

9. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws. For a period of 45 days from the date of publication of this notice, interested persons may submit comments regarding the proposed lease/conveyance or classification of the lands to the Assistant Field Manager, Tonopah Field Office, Post Office Box 911, Tonopah, Nevada 89049–0911.

Classification Comments: Interested persons may submit comments involving the suitability of the land for community expansion of the development of the fairground and rodeo complex, recreational complex, and the lands for a public trails park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Dated: November 12, 2002.

William S. Fisher,

Assistant Field Manager, Tonopah.

[FR Doc. 03–596 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–ES; NV–55282]

Notice of Realty Action: Recreation and Public Purposes (R&PP) Act Classification; Lease and Conveyance of Public Lands in Esmeralda County, Dyer, NV

AGENCY: Bureau of Land Management.

ACTION: Classification of public land for recreation and public purposes lease and conveyance.

SUMMARY: The following described public land in Esmeralda County, Nevada has been examined and found suitable for lease or conveyance to Esmeralda County under the provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 *et seq.*). The lands are hereby classified for use as a community center, parking lot, and related facilities, in accordance with section 7 of the Taylor Grazing Act, 43 U.S.C. 315f, and Executive Order No. 6910, as suitable.

Mount Diablo Meridian

T. 3 S., R. 35 E.,
Sec. 9, E½SE¼SE¼SE¼NW¼,
E½NE¼SE¼SE¼NW¼,
E½SE¼NE¼SE¼NW¼,
E½NE¼NE¼SE¼NW¼,
SE¼SE¼SE¼NE¼NW¼,
S½SW¼SW¼NW¼NE¼,
S½SE¼SW¼NW¼NE¼,
S½SW¼SE¼NW¼NE¼.

Containing 9.375 acres more or less.

This action will make lands which are not needed for Federal purposes and are identified for disposal in the Tonopah Resource Management Plan, available to support community expansion. Lease or conveyance of the lands for recreational or public purpose use would be in the public interest. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Tonopah Field Station, 1553 South Main Street, Tonopah, Nevada. Esmeralda County has applied for a patent to the land under the R&PP Act, as an addition to the Fish Lake Valley Community Center and Park.

Lease or conveyance (patent) of the lands will be subject to the following terms and conditions:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals.

4. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

5. A right-of-way authorized under the Act of October 21, 1976, 90 Stat. 2776 (43 U.S.C. 1761) for powerline purposed granted to Valley Electric Association, its successor or assignees, by right-of-way No. N–55278.

6. A right-of-way authorized under the Act of October 21, 1976, 90 Stat. 2776 (43 U.S.C. 1761) for powerline purposed granted to Valley Electric Association, its successor or assignees, by right-of-way No. N–051579.

7. A right-of-way authorized under the Act of October 21, 1976, 90 Stat. 2776 (43 U.S.C. 1761) for telephone and telegraph purposes granted to Nevada Bell, its successor or assignees, by right-of-way No. N–035353. Expires June 29, 2032.

8. A right-of-way authorized for a Federal Aid Highway (Sec 107) under the Act of August 27, 1958, as amended 72 Stat. 892 (23 U.S.C. 107(D)), by right-of-way No. NVCC–0 020855 issued to the Nevada Department of Transportation.

9. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Segregation

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act, leasing under the mineral leasing laws, and mineral material disposal laws.

Classification Comments

Interested parties may submit comments involving the suitability of the land for community expansion. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for community expansion.

DATES: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the proposed lease/conveyance or classification of the lands to the Assistant Field Station Manager, Tonopah Field Station, P.O. Box 911, Tonopah, NV 89049. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the land described in this notice will become effective 60 days from the date of publication of this notice in the **Federal Register**. The lands will not be offered for lease and conveyance until after classification becomes effective.

FOR FUTHER INFORMATION CONTACT: Realty Specialist, Wendy Barlow, Bureau of Land Management, Tonopah Field Station, Post Office Box 911, Tonopah, Nevada 89049–0911 or telephone (775) 482–7806.

Dated: November 13, 2002.

William S. Fisher,

Assistant Field Manager, Tonopah.

[FR Doc. 03–597 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–015–1610–DQ; GP–02–0233]

Notice of Availability for the Lakeview Proposed Resource Management Plan and Final Environmental Impact Statement

AGENCY: Lakeview District (Oregon), Bureau of Land Management.

ACTION: Notice of availability for the Lakeview Proposed Resource Management Plan (PRMP) and Final Environmental Impact Statement (FEIS).

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the National Environmental Policy Act (NEPA), the Bureau of Land Management (BLM) intends to make the PRMP/FEIS available for public review and comment. This planning activity encompasses approximately 3.2 million acres of public land managed by the Lakeview Resource Area, Lakeview District, located in Lake and Harney Counties in southeastern Oregon. In addition, a small, contiguous portion of Modoc and Washoe Counties located in northeastern California and northwestern Nevada, falling within the administrative boundary of the Surprise Field Office in Cedarville, California, but managed by the Lakeview Resource Area is also included for analysis purposes. The BLM has and will continue to work closely with all interested parties to identify management decisions that are best suited to the needs of the public. Final decisions will supercede the High Desert, Warner Lakes, and Lost River Management Framework Plans and provide direction for management of these public lands for approximately 20 years.

DATES: The public has the opportunity to protest the Proposed Resource Management Plan. The BLM Planning Regulations, 43 CFR 1610.5–2, state that any person who participated in the planning process and has an interest which may be adversely affected may protest. A protest may raise only those issues which were submitted for the record during the planning process. Any protests must be filed within 30 days of the date the Environmental Protection Agency publishes its notice of availability of the Final Environmental Impact Statement. Specific dates of the protest period will be announced through the local news media, letters or postcards, and the BLM web site (see the internet address below). Written protests may be submitted during the protest period at the following address: Director (210), Bureau of Land Management, Attention: Brenda Williams, P.O. Box 66538, Washington, DC 20035. To be considered timely, your protest must be postmarked no later than the last day of the protest period. Though not a requirement, we suggest that you send your protest by certified mail, return receipt requested. In addition you can use the overnight address (FedEX or USPS) as an option for next day delivery: Director (210), Bureau of Land Management, Attention: Brenda Williams, 1620 L Street, NW., Suite 1075, Washington, DC 20036. You are also encouraged, but not required, to forward a copy of your protest to the Lakeview District Manager at the address listed below. This may allow us to resolve the protest through clarification of intent or alternative dispute resolution methods. To be considered complete, your protest must contain (at a minimum) the following information:

(1) Name, mailing address, telephone number and the affected interest of the person filing the protest(s).

(2) A statement of the issue or issues being protested.

(3) A statement of the part or parts of the proposed plan being protested. To the extent possible, reference specific pages, paragraphs, and sections of the document.

(4) A copy of all your documents addressing the issue or issues which were discussed with the BLM for the record.

(5) A concise statement explaining why the proposed decision is believed to be incorrect. This is a critical part of your protest. Document all relevant facts, as much as possible. A protest that merely expresses disagreement with the State Director's proposed decision without providing any supporting data will not be considered a valid protest.

FOR FURTHER INFORMATION: Contact Paul Whitman, Bureau of Land Management, 1301 South G Street, Lakeview, Oregon 97630. Telephone (541–947–2177), Fax (541–947–6399), e-mail (*pwhitman@or.blm.gov*). Documents pertinent to this proposal may be examined at the Lakeview Resource Area office in Lakeview, Oregon during regular business hours (7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays). Interested persons may also review the PRMP/FEIS on the Internet at *www.or.blm.gov/Lakeview/Planning*. A hard copy or a CD–ROM of the document may be requested at the address and phone number above.

SUPPLEMENTARY INFORMATION: This land use plan focuses on the principles of multiple use management and sustained yield as prescribed by section 202 of the FLPMA. The Proposed RMP/FEIS considers and analyzes five alternatives. These alternatives have been developed based on extensive public input following scoping (July 1999), review of the summary of the Analysis of the Management Situation (July 2000), review and comment on the Draft RMP/EIS (October 2001–January 2002), and numerous meetings with local governments, tribes and the Southeast Oregon Resource Advisory Council. The alternatives provide for a wide array of alternative land use allocations and management direction. The alternatives provide for variable levels of commodity production, resource protection, and authorized land and resource uses, including utility corridors, energy and non-energy mineral leasing, livestock grazing and various forms of recreation. Alternative D (as modified by public comment on the Draft RMP/EIS) provides a balance of resource uses and protection and is identified as the agency's Proposed Plan. An Approved RMP/Record of Decision is expected to be available for public review in late 2002 after resolution of any protests.

Dated: May 15, 2002.

Scott R. Florence,

Field Manager, Lakeview Resource Area.

[FR Doc. 03–611 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–BJ]

Idaho: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of surveys.

SUMMARY: The Bureau of Land Management (BLM) has officially filed the plats of survey of the lands described below in the BLM Idaho State Office, Boise, Idaho, effective 9 a.m., on the dates specified.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Land Management to meet certain administrative needs of the Bureau of Land Management. The lands we surveyed are:

The plat representing the dependent resurvey of a portion of the west boundary, a portion of the subdivisional lines, Mineral Survey No. 907B, and the 1891 meanders of the Salmon River in section 19, and the subdivision of section 19, the survey of the 2000–2002 meanders of the Salmon River in section 19, the survey of 2000–2002 meanders of certain islands in the Salmon River in section 19, the survey of the 2000–2002 fixed and limiting boundary on an island in the Salmon River in section 19, and the survey of the 2000–2002 partition line between lots 5 and 15 in section 19, in T. 23 N., R. 22 E., Boise Meridian, Idaho, was accepted October 31, 2002.

The plat representing the dependent resurvey of a portion of the south boundary, the subdivisional lines, and the 1891 meanders of the right bank of the Salmon River in section 35, and the survey of the 2001 meanders of the right bank of the Salmon River and partition lines in section 35, in T. 20 N., R. 21 E., Boise Meridian, Idaho was accepted November 6, 2002.

The plat representing the corrective dependent resurvey of portions of the east boundary, subdivisional lines, original 1897 meanders of the left and right banks of the Snake River in section 25, and of the subdivision of section 25, and the dependent resurvey of a portion of the subdivisional lines and original 1897 meanders of the left bank of the Snake River in section 24, and the further subdivision of section 25 and the survey of the 2001–2002 meanders of Rock Island, designated as lot 9 in section 25, in T. 10 S., R. 21 E., Boise Meridian, Idaho, was accepted November 7, 2002.

The plat constitutes the entire survey record of the dependent resurvey of portions of the west boundary and subdivisional lines, and the metes-and-bounds survey in section 19, in T. 3 N., R. 30 E., Boise Meridian, Idaho, was accepted November 7, 2002.

The plat of the dependent resurvey of portions of the west boundary, subdivisional lines, certain mineral surveys in sections 17, 18, 19, 20, 21, 28, and 29, and mineral segregation survey of the Elvin lode claim in section 17, now designated as lot 8, section 17, and the subdivision of section 17, and the survey of a portion of the subdivisional lines, in T. 13 N., R. 27 E., Boise Meridian, Idaho, was accepted November 13, 2002.

This survey was executed at the request of the U.S.D.A. Forest Service for administrative management purposes. The land surveyed is:

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of sections 14, 23, and 24, in T. 7 S., R. 34 E., Boise Meridian, Idaho, was accepted December 5, 2002.

Dated: January 7, 2003.

Duane E. Olsen,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 03–570 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–02–9820–BJ–WY01]

Survey of Plat Filing; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey, Wyoming.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file the plats of survey of the described lands, 30 calender days from the date of this publication, in the BLM Wyoming State Office, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the U.S. Forest Service, and are necessary to determine the boundaries of the Medicine Bow National Forest. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of sections 10 and 11, Township 18 North, Range 82 West, Sixth Principal Meridian, Wyoming, was accepted December 31, 2002.

Copies of the preceding described plats are available to the public.

Dated: January 6, 2003.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. 03–640 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–02–1910–BJ–4467]

Notice of Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey, Wyoming.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file the plats of survey of the following described lands, thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, PO Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Indian Affairs, and are necessary for the management of tribal lands. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the subdivisional lines and subdivision of section lines, and the subdivision of section 19, Township 1 North, Range 4 East, Wind River Meridian, Wyoming, was accepted December 31, 2002.

Copies of the preceding described plats are available to the public.

Dated: January 6, 2003.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. 03–641 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 31044–01]

Notice of Proposed Withdrawal; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service, proposes to withdraw approximately 7,840 acres of National Forest System land to protect the Diamond Rim Quartz Crystal Interpretive Area. This notice segregates the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may by law be made of National Forest System land. This application replaces withdrawal application AZA 31044, which has been canceled.

DATES: Comments should be received on or before April 14, 2003.

ADDRESSES: Comments should be sent to the Forest Supervisor, Tonto National Forest, 2324 E. McDowell Road, Phoenix, Arizona 85006.

FOR FURTHER INFORMATION CONTACT: Karyn Harbour, Tonto National Forest, 602–225–5200, or Rod Byers, Payson Ranger District, 520–474–7900.

SUPPLEMENTARY INFORMATION: On April 22, 2002, the Forest Service filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Tonto National Forest

Gila and Salt River Meridian

T. 11 N., R. 11 E.,
Sec. 1;
Sec. 2;
Sec. 3;
Sec. 4, E½;
Sec. 10;
Sec. 11;
Sec. 12;
Sec. 13;
Sec. 14;
Sec. 15, NE¼;
Sec. 23, N½;
Sec. 24, N½.
T. 11½ N., R. 11 E.,
Sec. 33, E½;
Sec. 34;
Sec. 35, W½ and SE¼;
Sec. 36, SW¼.

The area described contains approximately 7,840 acres in Gila County.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing, by the date specified above, to the Forest Supervisor of the Tonto National Forest.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Application AZA 31044, published in the 64 FR 49023, September 9, 1999, has been canceled.

Steven J. Gobat,

Acting Deputy State Director, Resources Division.

[FR Doc. 03–589 Filed 1–10–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZA 31894]

Notice of Proposed Withdrawal; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Forest Service proposes to withdraw 1,907.87 acres of National Forest System land to protect the geologic and scenic values of the Red Mountain Geologic Area. This notice segregates the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may by law be made of National Forest System land.

DATES: Comments should be received on or before April 14, 2003.

ADDRESSES: Comments should be sent to the Forest Supervisor, Coconino National Forest, 2323 E. Greenlaw Lane, Flagstaff, Arizona 86004.

FOR FURTHER INFORMATION CONTACT: Pete Mourtsen, Coconino National Forest, 928–527–3414.

SUPPLEMENTARY INFORMATION: The Forest Service proposes to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Coconino National Forest

Gila and Salt River Meridian

T. 25 N., R. 5 E.,
Sec. 20, S½N½, and S½;
Sec. 21, lots 3 to 8, inclusive, and W½SE¼;
Sec. 28, W½E½, and W½;
Sec. 29.

The area described contains 1,907.87 acres in Coconino County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor of the Coconino National Forest.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request, by the date specified above, to the Forest Supervisor, Coconino National Forest. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Daniel H. Nowell,

Acting Deputy State Director, Resources Division.

[FR Doc. 03–591 Filed 1–10–03; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–958–1430–ET; HAG–0299; OROR–16756]

Proposed Withdrawal Extension and Opportunity for Public Meeting; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, proposes to extend Public Land Order No. 6476 for another 20 year period. This order withdrew National Forest System land from location and entry under the mining laws to protect and preserve the best stand of redwoods at the northern limits of the species range for research and educational values, and to protect the sensitive fauna and endangered species within the Wheeler Creek Research Natural Area. The land has been and will remain open to mineral leasing. This notice also gives an opportunity to comment on the proposed action and to request a public meeting.

DATES: Comments and requests for a public meeting must be received by April 14, 2003.

ADDRESSES: Comments and meeting requests should be sent to the Forest Supervisor, Siskiyou National Forest, 333W. 8th Street, P.O. Box 520, Medford, Oregon 97501–0209, or the Bureau of Land Management, Oregon/Washington State Office, P.O. Box 2965, Portland, Oregon 97208.

FOR FURTHER INFORMATION CONTACT: Roger Mendenhall, Realty Specialist, Siskiyou National Forest, 541–471–6521, or Charles R. Roy, BLM Oregon/Washington State Office, 503–808–6189.

SUPPLEMENTARY INFORMATION: On July 1, 2002, U.S. Department of Agriculture, Forest Service, requested that Public Land Order No. 6476 be extended for an additional 20 year period. This withdrawal was made to protect and preserve the best stand of redwoods at the northern limits of the species range for research and educational values, and to protect the sensitive fauna and endangered species within the Wheeler Creek Research Natural Area in Curry County, Oregon. Public Land Order No. 6476 will expire on October 4, 2003.

The withdrawal comprises approximately 334 acres of National Forest System land. It is located in T. 40 S., R. 12 W., Willamette Meridian, as described in Public Land Order No. 6476. A complete description of the land can be provided by the Oregon State Office at the address shown above.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed extension, or request for a public meeting may present their views in writing to the Oregon State Director of the Bureau of Land Management, or Forest Supervisor.

If the authorized officer determines that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days prior to the scheduled date of the meeting.

The withdrawal application will be processed in accordance with the regulations set forth in 43 CFR 2300.

Robert D. DeViney Jr.,

Chief, Branch of Realty and Records Services.

[FR Doc. 03–599 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

Temporary Contract for Belle Haven Marina, Inc.

AGENCY: National Park Service (NPS).

ACTION: Public notice.

SUMMARY: Pursuant to 36 CFR 51.24, public notice is hereby given that the Director intends to award a temporary concession contract to Belle Haven Marina, Inc. to avoid the interruption of visitor services.

EFFECTIVE DATE: January 1, 2003.

SUPPLEMENTARY INFORMATION: The contract between George Washington Memorial Parkway (GWMP) and Belle Haven Marina, Inc. expires December 31, 2002. The NPS has determined that a temporary contract is necessary in order to avoid interruption of visitor services and that all reasonable alternatives to the award of a temporary contract have been considered and found infeasible. The term of the temporary contract will be for a period of two years. This temporary contract will provide the time for GWMP to obtain technical assistance on the marina market, the business opportunity, and scientific data collection on the environmental impacts of proposed alternatives. GWMP is planning to have the Environmental Assessment (EA) completed by Spring 2003. The EA will allow GWMP to make a determination of necessary and appropriate services with respect to the marina so a prospectus may be issued leading to the competitive selection of a concessioner for a new long-term concession contract.

FOR FURTHER INFORMATION CONTACT: Jacqueline Lavelle, Concession Specialist, George Washington Memorial Parkway at (703) 289–2536.

Audrey F. Calhoun,

Superintendent, George Washington Memorial Parkway.

[FR Doc. 03–588 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF INTERIOR

National Park Service

Extension for Expiring Concession Contracts

AGENCY: National Park Service, Interior.

ACTION: Public Notice.

SUMMARY: Pursuant to 36 CFR 51.23, public notice is hereby given that the National Park Service proposes to extend the following expiring concession contracts for a period of up to one year, or until such time as a new contract is executed, whichever occurs sooner.

SUPPLEMENTARY INFORMATION: All of the listed concession authorizations will expire by their terms on or before December 31, 2002. The National Park Service has determined that the proposed short-term extensions are necessary in order to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid such interruption. These extensions will allow the National Park Service to complete and issue prospectuses leading to the competitive selection of concessioners for new long-term concession contracts covering these operations.

Conc ID No.	Concessioner name	Park
CC–CHOH001–89	Fletcher's Boat House, Inc	C&O Canal N.H.P.
LP–CHOH002–88	Swain's Lock	C&O Canal N.H.P.
CC–ROCR003–89	Golf Course Specialists, Inc	Rock Creek Park.
CC300080001	Buzzard Point Boatyard, Inc	National Capital Parks-East.
CP–NACC006–98	Thanh Van Vo and Hung Thi Nguyen	National Capital Parks-Central.
CC300080002	Prince William Travel Trailer Village, Inc	Prince William Forest Park.

EFFECTIVE DATE: January 2, 2003.

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, Washington, DC 20240, Telephone 202/513–7156.

Dated: November 15, 2002.

Richard G. Ring,

Associate Director, Administration, Business Practices and Workforce Development.

[FR Doc. 03–586 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–70–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before December 14, 2002. Pursuant to section 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–343–1836. Written or faxed comments should be submitted by January 28, 2003.

Carol D. Shull,

Keeper of the National Register of Historic Places

ARIZONA

Maricopa County

Hunt Bass Hatchery Caretaker's House, Phoenix Zoo Grounds, 455 N. Galvin Pkwy., Phoenix, 02001723

Mesa Journal—Tribune FHA Demonstration Home, 238 W. 2nd St., Mesa, 02001721

Navajo County

Baird's Chevelon Steps, Address Restricted, Winslow, 02001724

CALIFORNIA

Orange County

Villa Park School, 10551 Center Dr., Villa Park, 02001725

CONNECTICUT

New Haven County

Westville Village Historic District, Roughly along Blake St. and Whalley Ave., New Haven, 02001727

Windham County

Forty-Seventh Camp of Rochambeau's Army, Address Restricted, Windham, 02001732

GUAM

Guam County

Guam Legislative Building Site, 163 Chalan Santo Papa Juan Pablo Dos, Hagatna, 02001722

IDAHO

Elmore County

Atlanta Ranger Station Historic District, Boise National Forest, Atlanta, 02001726

MASSACHUSETTS

Middlesex County

Brookside Historic District, 1–44 Brookside, 5 Moore Rd., 1–7 Coolidge Ave., Westford, 02001729

McLean Hospital National Register District, 115 Mill St., Belmont, 02001733

NORTH CAROLINA

Wake County

Heartsfield—Perry Farm, NC 2224, 0.1 mi. SE of NC 2300, Rolesville, 02001728

OHIO

Seneca County

National Home, Daughters of America, 652 N. Sandusky St., Tiffin, 02001730

TEXAS

Harris County

Saturn V Launch Vehicle, Johnson Space Center, Houston, 02001731

UTAH

Box Elder County

Anderson, Martin, House, (Brigham City MPS) 105 N 300 W, Brigham City, 02001735

Fawson, Alfred and Marie, House, (Brigham City MPS) 66 S 100 W, Brigham City, 02001736

Forsgren, Peter and Anna Christena, House, 59 S 100 E, Brigham City, 02001737

Hoist, Christian and Annie, House, (Brigham City MPS) 495 S 200 E, Brigham City, 02001738

Kane County

Paryy Lodge, (Kanab, Utah MPS) 89 E. Center St., Kanab, 02001734

Salt Lake County

Salt Lake City East Side Historic District (Boundary Increase), Roughly bounded 400 South, University St., 900 South, and 700 East, Salt Lake City, 02001739

WISCONSIN

Kenosha County

Washington Park Clubhouse, 2205 Washington Rd., Kenosha, 02001740

Due to procedural error this nomination is being reprinted for comment:

NEW YORK

Tioga County

Halsey Valley Grand Army of Republic (GAR) Meeting Hall, Hamilton Valley Rd., Spencer vicinity, 02001646

[FR Doc. 03–587 Filed 1–10–03; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–484]

In the Matter of Certain Machine Vision Systems, Parts and Components Thereof and Products Containing Same; Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on December 12, 2002, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Cognex Corporation of Natick, Massachusetts. Letters supplementing the complaint were filed on December 20, 2002, December 23, 2002, and December 31, 2002. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States and the sale within the United States after importation of certain machine vision systems, parts and components thereof and products containing same by reason of infringement of claims 1 and 10 of U.S. Patent No. 6,301,396, claim 1 of U.S. Patent No. 5,960,125, claim 1 of U.S. Patent No. 5,978,521, or claim 1 of U.S. Patent No. 5,978,080. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, at the conclusion of the investigation, issue a permanent exclusion order and a permanent cease and desist order.

ADDRESSES: The complaint and supplements, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.*

The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public.*

FOR FURTHER INFORMATION CONTACT: Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2572.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's rules of practice and procedure, 19 CFR 210.10 (2002).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on January 7, 2003, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain machine vision systems, parts or components thereof, or products containing same by reason of infringement of claims 1 or 10 of U.S. Patent No. 6,301,396, claim 1 of U.S. Patent No. 5,960,125, claim 1 of U.S. Patent No. 5,978,521, or claim 1 of U.S. Patent No. 5,978,080, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served: (a) The complainant is—Cognex Corporation, One Vision Drive, Natick, Massachusetts 01760.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Nikon Corporation, Fuji Building, 2–3, Marunouchi 3-chome, Chiyoda-ku, Tokyo 100–831, Japan.

Nikon Precision, Inc., 1399 Shoreway Road, Belmont, CA 94002–4107.

Aval Data Corporation, 25–10, Asahi-Machi 1-chome, Machida City, Tokyo 194–0023, Japan.

(c) Juan Cockburn, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's rules of practice and procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the

complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Issued: January 8, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–638 Filed 1–10–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Caterpillar Inc.: Structural Health Integrated Electronic Life Determination (''Shield'')

Notice is hereby given that, on November 19, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Caterpillar has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of a joint venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are Caterpillar Inc., Mossville, IL; Motorola, Inc., Schaumburg, IL; and Native American Technologies Company, Golden, CO. The nature and objectives of the venture are to develop and demonstrate an on-board, electronic, real time structural health monitoring system for metals. The activities of this Joint Venture project will be partially funded by an award from the Advanced Technology Program, National Institute of Standards and Technology, Department of Commerce.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–627 Filed 1–10–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—FreedomCAR Hydrogen Storage and Vehicle Interface Technical Team

Notice is hereby given that, on December 3, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), FreedomCAR Hydrogen Storage and Vehicle Interface Technical Team has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are General Motors Corporation, Detroit, MI; DaimlerChrysler Corporation, Auburn Hills, MI; and Ford Motor Company, Dearborn, MI. The nature and objectives of the venture are to conduct joint research necessary to develop and demonstrate commercially viable technology for storage of hydrogen on board vehicles and the various interfaces between the hydrogen storage unit and other components of the vehicle. The research will support FreedomCAR, a joint effort of the Federal government and the U.S. auto industry to develop affordable, hydrogen-powered vehicles. To accomplish this objective, the parties, working in conjunction with government entities, universities and suppliers, will conduct workshops, experiments and other acts allowed by the National Cooperative Research and Production Act that would advance those goals.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–624 Filed 1–10–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—The Hop Breeding Company, LLC

Notice is hereby given that, on December 3, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), The Hop Breeding Company, LLC has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Pursuant to section 6(b) of the Act, the identities of the parties are John I. Haas, Inc., Washington, DC; and Yakima Chief Ranches, LLC, Sunnyside, WA. The nature and objectives of the venture are to develop pest-resistant and disease-resistant hop varieties with strong commercial qualities.

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–628 Filed 1–10–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on December 11, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), IMS Global Learning Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Act Consultants, Ltd., Sheffield, United Kingdom has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project.

Membership in this group research project remains open, and IMS Global Learning Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On April 7, 2000, IMS Global Learning Consortium, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on September 16, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 6, 2002 (67 FR 67648).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–625 Filed 1–10–03; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Salutation Consortium, Inc.

Notice is hereby given that, on December 10, 2002, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Salutation Consortium, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Kong Kok-King (individual member), Tokyo, Japan has been added as a party to this venture. Also, Murata Machinery, Ltd., Tokyo, Japan; Oki Data Corp., Gunma, Japan; and Seiko Espon Corp., Nagan, Japan have been dropped as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Salutation Consortium, Inc. intends to file additional written notification disclosing all changes in membership.

On March 30, 1995, Salutation Consortium, Inc. filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on June 27, 1995 (60 FR 33233).

The last notification was filed with the Department on September 17, 2002. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on November 6, 2002 (67 FR 67650).

Constance K. Robinson,

Director of Operations, Antitrust Division.

[FR Doc. 03–626 Filed 1–10–03; 8:45 am]

BILLING CODE 4410–11–M

LEGAL SERVICES CORPORATION

Notice of Availability of 2003 Competitive Grant Funds for Service Area OH–19 in Ohio

AGENCY: Legal Services Corporation.

ACTION: Solicitation of Proposals for the Provision of Civil Legal Services for Basic Field-General service area OH–19 in Ohio.

SUMMARY: The Legal Services Corporation (LSC) is the national organization charged with administering federal funds provided for civil legal services to the poor. Congress has adopted legislation requiring LSC to utilize a system of competitive bidding for the award of grants and contracts.

LSC hereby announces that it is reopening the 2003 grants competition for service area OH–19 in Ohio and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient and high quality civil legal services to the eligible client population. The exact amount of congressionally appropriated funds and the date and terms of their availability for calendar year 2003 are not known, although it is anticipated that the funding amount will be similar to calendar year 2002 funding.

DATES: Request for Proposals (RFP) are available from *http://www.ain.lsc.gov.* A Notice of Intent to Compete is due by 5:00 p.m. ET, February 14, 2003. Grant proposals must be received at LSC by 5:00 p.m. ET, March 14, 2003.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street NE., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Mounia Bensalah, Grants Coordinator, Office of Program Performance, (202) 336–8914.

SUPPLEMENTARY INFORMATION: LSC is seeking proposals from non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients, and from private attorneys, groups of private attorneys or law firms, state or local governments, and substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The RFP, containing the grant application, guidelines, proposal content requirements, specific selection criteria, and the description of service area OH–19 is available at *http://www.ain.lsc.gov.*

Issue Dated: January 8, 2003.

Michael A. Genz,

Director, Office of Program Performance.

[FR Doc. 03–649 Filed 1–10–03; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE: (03—001)]

Notice of Information Collection Under OMB Review

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of information collection under OMB review.

SUMMARY: The National Aeronautics and Space Administration, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 3506(c)(2)(A)).

DATES: All comments should be submitted within 30 calendar days from the date of this publication.

ADDRESSES: All comments should be addressed to Desk Officer for NASA; Office of Information and Regulatory Affairs; Office of Management and Budget; Room 10236; New Executive Office Building; Washington, DC, 20503.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Kaplan, NASA Reports Officer, (202) 358–1372.

Title: Required Central Contractor Registration.

OMB Number: 2700–0097.

Type of review: Extension.

Need and Uses: The information obtained in this collection will be used to populate the vendor database in the NASA Integrated Financial Management (IFM) System.

Affected Public: Business or other for-profit; Federal Government; Not-for-profit institutions; State, Local, or Tribal Government.

Number of Respondents: 10,200.

Annual Responses: 1,200.
Hours Per Request: Approximately 15 minutes/request.
Annual Burden Hours: 3,130.
Frequency of Report: One time.

Patricia Dunnington,
Deputy Chief Information Officer, Office of the Administrator.
[FR Doc. 03–575 Filed 1–10–03; 8:45 am]
BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No(s). (as shown in Attachment 1); License No(s). (as shown in Attachment 1); EA–02–261]

In the Matter of all Operating Power Reactor Licensees; Order Modifying Licenses (Effective Immediately)

I

The licensees identified in Attachment 1 to this Order hold licenses issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) authorizing operation of nuclear power plants in accordance with the Atomic Energy Act of 1954 and title 10 of the Code of Federal Regulations (10 CFR), part 50. Commission regulations at 10 CFR 50.54(p)(1) require these licensees to maintain safeguards contingency plan procedures in accordance with 10 CFR part 73, Appendix C. Specific safeguards requirements are contained in 10 CFR 73.55, 73.56, and 73.57.

II

On September 11, 2001, terrorists simultaneously attacked targets in New York, NY, and Washington, DC, utilizing large commercial aircraft as weapons. In response to the attacks and intelligence information subsequently obtained, the Commission issued a number of Safeguards and Threat Advisories to its licensees in order to strengthen licensees' capabilities and readiness to respond to a potential attack on a nuclear facility. On February 25, 2002, the Commission issued Orders to the licensees of operating power reactors to put the actions taken in response to the Advisories in the established regulatory framework and to implement additional security enhancements which emerged from NRC's ongoing comprehensive security review.

As a result of its consideration of licensees' access authorization programs as part of the comprehensive security review, the Commission has determined that certain compensatory measures are required to be implemented by licensees as prudent measures to improve access authorization at operating power reactors. Therefore, the Commission is imposing requirements, as set forth in Attachment 2 of this Order,[1] on all licensees of these facilities. These requirements, which supplement existing regulatory requirements, will provide the Commission with reasonable assurance that the public health and safety and common defense and security will continue to be adequately protected in the current threat environment. These requirements will remain in effect until the Commission determines otherwise.

The Commission recognizes that licensees may have already initiated many of the measures set forth in Attachment 2 to this Order in response to previously issued advisories or on their own. It is also recognized that some measures may not be possible or necessary at some sites, or may need to be tailored to accommodate the specific circumstances existing at the licensee's facility to achieve the intended objectives and avoid any unforeseen effect on safe operation.

In order to provide assurance that licensees are implementing prudent measures to achieve a consistent level of protection, all licenses identified in Attachment 1 to this Order shall be modified to include the requirements identified in Attachment 2 to this Order. In addition, pursuant to 10 CFR 2.202, the Commission finds that in the circumstances described above, the public health, safety and interest require that this Order be immediately effective.

III

Accordingly, pursuant to sections 103, 104, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR parts 50 and 73, it is hereby ordered, effective immediately, that all licenses identified in Attachment 1 to this Order are modified as follows:

A. All Licensees shall, notwithstanding the provisions of any Commission regulation or license to the contrary, comply with the requirements described in Attachment 2 to this Order except to the extent that a more stringent requirement is set forth in the Licensee's security plan. The Licensees shall immediately begin implementation of the requirements in Attachment 2 to the Order and shall complete implementation no later than July 7, 2003, with the exception of compensatory measure B.1.1, which shall be implemented no later than April 7, 2003, and C.1.6 and C.1.8, which shall be completed no later than January 7, 2004.

B.1. All Licensees shall, within 20 days of the date of this Order, notify the Commission (1) if they are unable to comply with any of the requirements described in Attachment 2, (2) if compliance with any of the requirements is unnecessary in their specific circumstances, or (3) if implementation of any of the requirements would cause the Licensee to be in violation of the provisions of any Commission regulation or the facility license. The notification shall also provide justification for seeking relief from or variation of any specific requirement.

2. Any Licensee that considers that implementation of any of the requirements described in Attachment 2 to this Order would adversely impact safe operation of the facility must notify the Commission, within 20 days of the date of this Order, of the adverse safety impact, the basis for its determination that the requirement has an adverse safety impact, and either a proposal for achieving the same objectives specified in the Attachment 2 requirement in question, or a schedule for modifying the facility to address the adverse safety condition. If neither approach is appropriate, the Licensee must supplement its response to Condition B.1 of this Order to identify the condition as a requirement with which it cannot comply, with attendant justifications as required in Condition B.1.

C.1. All Licensees shall, within 20 days of the date of this Order, submit to the Commission a schedule for achieving compliance with each requirement described in Attachment 2.

2. All Licensees shall report to the Commission when they have achieved full compliance with the requirements described in Attachment 2.

D. Notwithstanding the provisions of 10 CFR 50.54(p), all measures implemented or actions taken in response to this Order shall be maintained until the Commission determines otherwise.

Licensee responses to Conditions B.1, B.2, C.1, and C.2, above shall be submitted in accordance with 10 CFR 50.4. In addition, Licensee submittals that contain Safeguards Information shall be properly marked and handled in accordance with 10 CFR 73.21.

The Director, Office of Nuclear Reactor Regulation may, in writing, relax or rescind any of the above conditions upon demonstration by the Licensee of good cause.

[1] Attachment 2 contains SAFEGUARDS information and will not be released to the public.

IV

In accordance with 10 CFR 2.202, the Licensee must, and any other person adversely affected by this Order may, submit a response to this Order, and may request a hearing on this Order, within 20 days of the date of this Order. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time in which to submit an answer or request a hearing must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. The response may consent to this Order. Unless the response consents to this Order, the response shall, in writing and under oath or affirmation, specifically set forth the matters of fact and law on which the Licensee or other person adversely affected relies and the reasons as to why the Order should not have been issued. Any response or request for a hearing shall be submitted to the Secretary, Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, ATTN: Rulemakings and Adjudications Staff, Washington, DC 20555. Copies also shall be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; to the Assistant General Counsel for Materials Litigation and Enforcement at the same address; to the Regional Administrator for NRC Region I, II, III, or IV, as appropriate for the specific facility; and to the Licensee if the answer or hearing request is by a person other than the Licensee. Because of possible disruptions in delivery of mail to United States Government offices, it is requested that decontrolled answers (no Safeguards Information) and requests for hearing be transmitted to the Secretary of the Commission either by means of facsimile transmission to 301–415–1101 or by e-mail to *hearingdocket@nrc.gov* and also to the Office of the General Counsel either by means of facsimile transmission to 301–415–3725 or by e-mail to *OGCMailCenter@nrc.gov*. If a person other than the Licensee requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address the criteria set forth in 10 CFR 2.714(d).[2]

If a hearing is requested by the Licensee or a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Order should be sustained.

Pursuant to 10 CFR 2.202(c)(2)(i), the Licensee may, in addition to demanding a hearing, at the time the answer is filed or sooner, move that the presiding officer set aside the immediate effectiveness of the Order on the grounds that the Order, including the need for immediate effectiveness, is not based on adequate evidence but on mere suspicion, unfounded allegations, or error.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in section III above shall be final 20 days from the date of this Order without further Order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in section III shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated this 7th day of January, 2003.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Attachment 1

Gregory Baker, Braidwood Station, Units 1 & 2, Exelon Generation Company, LLC, Docket Nos. STN 50–456 & STN 50–457, License Nos. NPF–72 & NPF–77, 35100 S. Rt. 53, Suite 84, Braceville, IL 60407

Mr. Jay K. Thayer, Site Vice President, Vermont Yankee Nuclear Power Station, Entergy Nuclear Vermont Yankee, LLC, Docket No. 50–271, License No. DPR–28, 185 Old Ferry Road, Brattleboro, VT 05302–0500

Mark Bezilla, Vice President, Beaver Valley Power Station, Units 1 & 2, FirstEnergy Nuclear Power Operating Company, Docket Nos. 50–334 & 50–412, License Nos. DPR–66 & NPF–73, P.O. Box 4, Route 168, Shippingport, PA 15077–0004

Ashok S. Bhatnagar, Site Vice President, Browns Ferry Nuclear Plant, Units 1, 2, & 3, Docket Nos. 50–259, 50–260, & 50–296, License Nos. DPR–33, DPR–52 & DPR–68, Tennessee Valley Authority, Intersection Limestone Country Roads 20 and 25, Athens, AL 35611

Denny Braund, Shearon Harris Nuclear Power Plant, Unit 1, Carolina Power & Light Company, Docket No. 50–400, License No. NPF–63, 5413 Shearon Harris Road, New Hill, NC 27562

Allen Brittain, Security Superintendent, Brunswick Steam Electric Plant, Units 1 & 2, Carolina Power & Light Company, Docket Nos. 50–325 & 50–324, License Nos. DPR–71 & DPR–62, Highway 27, 2.5 Miles North, Southport, NC 28461

Greg D. Brown, Grand Gulf Nuclear Station, Unit 1, Entergy Operations, Inc., Docket No. 50–416, License No. NPF–29, Bald Hill Road—Waterloo Road, Port Gibson, MS 39150

Michael Bruecks, Three Mile Island Nuclear Station, Unit 1, Amergen Energy Company, LLC, Docket No. 50–289, License No. DPR–50, Route 441 South, Middletown, PA 17057

Stephen A. Byrne, Senior Vice President-Nuclear Operations, Virgil C. Summer Nuclear Station, Unit 1, South Carolina Electric & Gas Company, Docket No. 50–395, License No. NPF–12, Hwy 215 N at Bradham Blvd., Jenkinsville, SC 29065

Mr. John T. Conway, Site Vice President, Nine Mile Point Nuclear Station, Units 1 & 2, Nine Mile Point Nuclear Station, LLC, Docket Nos. 50–220 & 50–410, License Nos. DPR–63 & NPF–69, 348 Lake Road, Oswego, NY 13126

David Combs, Byron Station, Units 1 & 2, Exelon Generation Company, LLC, Docket Nos. STN 50–454 & STN 50–455, License Nos. NPF–37 & NPF–66, 4450 N. German Church Road, Byron, IL 61010

Douglas Cooper, Site Vice President, Palisades Plant, Nuclear Management Company, LLC, Docket No. 50–255, License No. DPR–20, 27780 Blue Star, Memorial Highway, Covert, MI 49043

William T. Cottle, President & Chief Executive Officer, South Texas Project Electric Generating Company, Units 1 & 2, STP Nuclear Operating Company, Docket Nos. 50–498 & 50–499, License Nos. NPF–76 & NPF–80, 8 Miles West of Wadsworth, on FM 521, Wadsworth, TX 77483

Michael H. Crowthers, Supervising Engineer, Susquehanna Steam Electric Station, Units 1 & 2, PPL Susquehanna, LLC, Docket Nos. 50–387 & 50–388, License Nos. NPF–14 & NPF–22, 2 North Ninth Street, GENA61, Allentown, PA 18101

J. Mark Dunbar, Security Manager, Callaway Plant, Unit 1, Ameren Union Electric Company, Docket No. STN 50–483, License No. NPF–30, Highway CC, (5 Miles North of Highway 94), Portland, MO 65067

David Erbe, Security Manager, Wolf Creek Generating Station, Unit 1, Wolf Creek Nuclear Operating Corporation, Docket No. STN 50–482, License No. NPF–42, 1550 Oten Lane, NE, Burlington, KS 66839

William A. Evans, William B. McGuire Nuclear Station, Units 1 & 2, Duke Energy Corporation, Docket Nos. 50–369 & 50–370, License Nos. NPF–9 & NPF–17, Mail—MG01SC 12700 Hagers Ferry Road, Huntersville, NC 28078

Rick Ewart, Security Manager, Oyster Creek Nuclear Generating Station, AmerGen Energy Company, LLC, Docket No. 50–219, License No. DPR–16, Route 9, Forked River, NJ 08731

Mark Fencl, Security Manager, Point Beach Nuclear Plant, Units 1 & 2, Nuclear

[2] The most recent version of title 10 of the Code of Federal Regulations, published January 1, 2002, inadvertently omitted the last sentence of 10 CFR 2.714 (d) and paragraphs (d)(1) and (d)(2) regarding petitions to intervene and contentions. For the complete, corrected text of 10 CFR 2.714 (d), please *see* 67 FR 20884, April 29, 2002.

Management Company, LLC, Docket Nos. 50–266 & 50–301, License Nos. DPR–24 & DPR–27, 610 Nuclear Road, Two Rivers, WI 54241

Mark Findlay, Director, Kewaunee Nuclear Power Plant, Nuclear Management Corporation, Docket No. 50–305, License No. DPR–43, 700 First Street, Hudson, WI 54016

Marty Folding, Security Superintendent, Crystal River, Unit 3 Nuclear Generating Plant, Florida Power Corporation, Docket No. 50–302, License No. DPR–72, Crystal River Energy Complex 15760 West Power Line Street (NAID), Crystal River, FL 34428–6708

W. Gary Gates, Vice President for Nuclear Ops, Fort Calhoun Station, Unit 1, Omaha Public Power District, Docket No. 50–285, License No. DPR–40, 444 S. 16th Street Mall, Omaha, NE 68102

Valheria Gengler, Dresden Nuclear Power Station, Units 2 & 3, Exelon Generation Company, Docket Nos. 50–237 & 50–249, License Nos. DPR–19 & DPR–25, 6500 North Dresden Road, Morris, IL 60450–9765

Neil Harris, Comanche Peak Steam Electric Station, Units 1 & 2, TXU Generation Company LP, Docket Nos. 50–445 & 50–446, License Nos. NPF–87 & NPF–89, FM 56, 5 Miles North of Glen Rose, Glen Rose, TX 76043

J. Haley, Security Manager, James A FitzPatrick Nuclear Power Plant, Entergy Nuclear Operations, Inc., Docket No. 50–333, License No. DPR–59, 268 Lake Road, Lycoming, NY 13093

Jerry Sims, Project Coordinator Nuclear Security (B031), Southern Nuclear Operating Company, Inc., Joseph M. Farley Nuclear Plant, Units 1 & 2, Docket Nos. 50–348 & 50–364, License Nos. NPF–2 & NPF–8, Vogtle Electric Generating Plant, Units 1 & 2, Docket Nos. 50–424 & 50–425, License Nos. NPF–68 & NPF–81, 42 Inverness Center Parkway, Birmingham, AL 35242

Michael R. Higgins, Superintendent of Plant Security, Arkansas Nuclear One, Units 1 & 2, Entergy Operations, Inc., Docket Nos. 50–313 & 50–368, License Nos. DPR–51 & NPF–6, 1448 S.R. 333, Russellville, AR 72802

Andre James, Security Manager, River Bend Station, Entergy Operations, Inc., Docket No. 50–458, License No. NPF–47, 639 Loyola Avenue, New Orleans, LA 70113

William S. Johns, Site Security Supervisor, Turkey Point Nuclear Generating Station, Units 3 & 4, Florida Power & Light Company, Docket Nos. 50–250 & 50–251, License Nos. DPR–31 & DPR–41, 9760 SW 344th Street, Florida City, FL 33035

Michael Kansler, Chief Nuclear Officer, Indian Point Nuclear Generating Station, Units 2 & 3, Entergy Nuclear Operations, Inc., Docket Nos. 50–247 & 50–286, License Nos. DPR–26 & DPR–64, 295 Broadway, Suite 1, Buchanan, NY 10511–0249

Michael Bellamy, Senior Vice President, Pilgrim Nuclear Power Station, Unit 1, Entergy Nuclear Generation Company, Docket No. 50–293, License No. DPR–35, RFD #1 Rocky Hill Road, Plymouth, MA 02360

P.E. Katz, Vice President, Calvert Cliffs Nuclear Power Plant, Units 1 & 2, Calvert Cliffs Nuclear Power Plant, Inc., Docket Nos. 50–317 & 50–318, License Nos. DPR–53 & DPR–69, 1650 Lusby Parkway, Lusby, MD 20657–4702

Ben Kindred, Security Manager, Duane Arnold Energy Center, Nuclear Management Company, LLC, Docket No. 50–331, License No. DPR–49, 3277 DAEC Road, Polo, Iowa 52324

Terry King, Security Manager, Oconee Nuclear Station, Units 1, 2, & 3, Duke Energy Corporation, Docket Nos. 50–269, 50–270 & 50–287, License Nos. DPR–38, DPR–47 & DPR–55, 7800 Rochester Highway, Seneca, SC 29672

Joe Korte, Nuclear Security Manager, Fermi, Unit 2, Detroit Edison Company, Docket No. 50–341, License No. NPF–43, 6400 N. Dixie Highway, Newport, MI 48166

Brian B. Linde, Security Manager, Monticello Nuclear Generating Plant, Nuclear Management Company, Docket No. 263, License No. DPR–22, 2807 W. Highway 75, Monticello, MN 55362

Cortis Luffman, Surry Power Station, Unit 1 & 2, Virginia Electric & Power Company, Docket Nos. 50–280 & 50–281, License Nos. DPR–32 & DPR–37, 5570 Hog Island Road, Surry, VA 23883–0315

Tim Maddy, Manager, Station Nuclear Security, North Anna Power Station, Units 1 & 2, Virginia Electric & Power Company, Docket Nos. 50–338 & 50–339, License Nos. NPF–4 & NPF–7, 1022 Haley Drive, Mineral, Virginia 23117

Thomas Mahon, Security Manager, Perry Nuclear Power, Unit 1, FirstEnergy Nuclear Operating Company (FENOC), Docket No. 50–440, License No. NPF–58, 10 North Center Street, Perry, OH 44081

Robert C. Mecredy, Vice President, Nuclear Operations, R.E. Ginna Nuclear power Plant, Rochester Gas & Electric Corporation, Docket No. 50–244, License No. DPR–18, 89 East Avenue, Rochester, NY 14649

J.V. Parrish, Chief Executive Officer, Columbia Generating Station, Energy Northwest, Docket No. 50–397, License No. NPF–21, Snake River Warehouse, North Power Plant Loop, Richland, WA 99352

G.R. Peterson, Vice President Catawba Site, Catawba Nuclear Station, Units 1 & 2, Duke Energy Corporation, Docket Nos. 50–413 & 50–414, License Nos. NPF–35 & NPF–52, 4800 Concord Road, York, SC 29745

James M. Preschel, Regulatory Programs Manager, Seabrook Station, Unit 1, North Atlantic Energy Service Corporation, Docket No. 50–443, License No. NPF–86, FPL Energy Seabrook, LLC, Seabrook, NH 03874

J. Alan Price, Site Vice President, c/o Mr. David A. Smith, Millstone Power Station, Units 2 & 3, Dominion Nuclear Connecticut, Inc., Docket Nos. 50–336 & 50–423, License Nos. DPR–65 & NPF–49, Rope Ferry Road, Waterford, CN 06385

Michael W. Priebe, Dept. Leader-Security Operations, Palo Verde Nuclear Generating, Units 1, 2 & 3, Arizona Public Service Company, Docket Nos. STN 50–528, 50–529, & STN 50–530, License Nos. NPF–41, NPF–51 & NPF–74, 5801 S. Wintersburg Road, Tonapah, Arizona 85354–7529

Harold B. Ray, Executive Vice President, San Onofre Nuclear Station, Units 2 & 3, Southern California Edison Company, 500 Pacific Coast Highway, Docket Nos. 50–361 & 50–362, License Nos. NPF–10 & NPF–15, Building D3D, San Clemente, CA 92672

Gregory M. Rueger, Senior Vice President, Diablo Canyon Nuclear Power Plant, Units 1 & 2, Pacific Gas & Electric Company, Docket Nos. 50–275 & 50–323, License Nos. DPR–80 & DPR–82, Mail-B32, 77 Beale Street, San Francisco, CA 94105

Bonnie A. Schnetzler, Security Manager, Watts Bar Nuclear Plant, Unit 1, Tennessee Valley Authority, Docket No. 50–390, License No. NPF–90, Highway 68 Near Spring City, Spring City, TN 37381

Gary Sheel, Security Manager, Davis-Besse Nuclear Power Station, Unit 1, FirstEnergy Nuclear Operating Company (FENOC), Docket No. 50–346, License No. NPF–3, 5501 N. State, Route 2, Oak Harbor, OH 43449

Jerry Sims, Project Coordinator Nuclear Security (B031), Edwin I. Hatch Nuclear Plant, Units 1 & 2, Southern Nuclear Operating Company, Inc., Docket Nos. 50–321 & 50–366, License Nos. DPR–57 & NPF–5, 42 Inverness Center Park, Birmingham, AL 35242

Tim Tulon, Site Vice President, Quad Cities Nuclear Power Station, Units 1 & 2, Exelon Generation Company, Docket Nos. 50–254 & 50–265, License Nos. DPR–29 & DPR–30, 22710—206th Ave., North, Cordova, IL 61242

J. Michael Pacilio, Site Vice President, Clinton Power Station, Unit 1, AmerGen Energy Company, LLC, Docket No. 50–461, License No. NPF–62, Route 54 east, 6 miles, Clinton, IL 61727

Kenneth Stevens, Security Manager, Sequoyah Nuclear Plant, Units 1 & 2 (OPS5N), Tennessee Valley Authority (TVA), Docket Nos. 50–327 & 50–328, License Nos. DPR–77 & DPR–79, Sequoyah Road, Soddy Daisy, TN 37384

Ted Straub, Manager of Nuclear Security & Fire, Security Center, Salem Nuclear Generating Station, Units 1 & 2, Docket Nos. 50–272 & 50–311, DPR–70 & DPR–75, Hope Creek Generating Station, Docket No. 50–354, License No. NPF–57, PSEG Nuclear LLC, End of Buttonwood Road, Hancocks Bridge, NJ 08038

Peter R. Supplee, Limerick Generating Station, Units 1 & 2, Exelon Generation Company, LLC, Docket No. 50–352 & 50–353, License Nos. NPF–39 & NPF–85, Evergreen & Sanatoga Road, TSC 1–2, Sanatoga, PA 19464

Joseph E. Venable, Vice President, Operations, Waterford Steam Electric Generating Station, Unit 3, Entergy Operations, Inc., Docket No. 50–382, License No. NPF–38, 17265 River Road, Killona, LA 70066–0751

Wayne Trump, Manager—Site Security, Peach Bottom Atomic Power Station, Units 2 & 3, Exelon Generation Company, LLC, Docket Nos. 50–277 & 50–278, License Nos. DPR–44 & DPR–56, 1848 Lay Road, Delta, PA 17314

Gary L. Varnes, Site Security Manager, St. Lucie Nuclear Plant, Units 1 & 2, Florida Power & Light Company, Docket Nos. 50–

335 & 50–389, License Nos. DPR–67 & NPF–16, 6351 South Ocean Drive, Jensen Beach, FL 34957

John Waddell, Nuclear Security Manager, Prairie Island & Nuclear Company, Nuclear Management Generating Plant, Units 1 & 2 Docket Nos. 50–282 & 50–306, License Nos. DPR–42 & DPR–60, 1717 Wakonade Drive East, Welch, MN 55089

Cindy Wilson, LaSalle County Station, Units 1 & 2, Exelon Generation Company, Docket Nos. 50–373 & 50–374, License Nos. NPF–11 & NPF–18, 2601 North 21st Road, Marseilles, IL 61341–9757

Mr. Clay C. Warren, Vice President of Nuclear, Cooper Nuclear Station, Nebraska Public Power District, Docket No. 50–298, License Nos. DPR–46, 2 Miles South of Brownsville, Brownsville, NE 68321

Scott Young, Security Superintendent, H.B. Robinson Steam Electric Plant, Unit 2, Carolina Power & Light Company, Docket No. 50–261, License No. DPR–23, 3581 West Entrance Road, Hartsville, SC 29550

A. Christopher Bakken, Senior Vice President and Chief Nuclear Officer, Donald C. Cook Nuclear Plant, Units 1 & 2, Docket Nos. 50–315 & 50–316, License Nos. DPR–58 & DPR–74, Indiana Michigan Power Group, 500 Circle Drive, Buchanan, MI 49107

[FR Doc. 03–572 Filed 1–10–03; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: RI 25–15

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995 and 5 CFR 1320), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of a revised information collection. RI 25–15, Notice of Change in Student's Status, is used to collect sufficient information from adult children of deceased Federal employees or annuitants to assure that the child continues to be eligible for payments from OPM.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

Approximately 2,500 certifications are processed annually. Each form takes approximately 30 minutes to complete. The annual estimated burden is 1,250 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to *mbtoomey@opm.gov*. Please include your mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415–3540.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Cyrus S. Benson, Team Leader, Desktop Publishing and Printing Team, Budget and Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–399 Filed 1–10–03; 8:45 am]

BILLING CODE 6325–50–P

POSTAL RATE COMMISSION

Sunshine Act Meeting

AGENCY: Postal Rate Commission.

TIME AND DATE: 3 p.m., Tuesday, January 14, 2003.

PLACE: Commission conference room, 1333 H Street NW., Suite 300, Washington, DC 20268–0001.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Personnel issues.

CONTACT PERSON FOR MORE INFORMATION: Steven W. Williams, Secretary, 202–789–6842.

Dated: January 9, 2003.

Steven W. Williams,

Secretary

[FR Doc. 03–779 Filed 1–9–03; 3:35 pm]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Regulation FD; SEC File No. 270–475; OMB Control No. 3235–0536.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management Budget for extension and approval.

Regulation FD—Other Disclosure Materials requires public disclosure of material information from issuers of publicly traded securities so that investors have current information upon which to base investment decisions. The purpose of the regulation is to require that: (1) When an issuer intentionally discloses material information it do so through public disclosure, not selective disclosure; and (2) whenever an issuer learns that it has made a non-intentional material selective disclosure, the issuer make prompt public disclosure of that information. Regulation FD was adopted due to a concern that the practice of selective disclosure leads to a loss of investor confidence in the integrity of our capital markets. It is estimated that approximately 13,000 issuers file correspondence under Regulation FD. The filer prepares 25% of the 290,000 annual burden hours for a total of 72,500 burden hours.

Written 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 has practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate

Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549.

Dated: December 30, 2002.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–602 Filed 1–10–03; 8:45 am]

BILLING CODE 8010–01–P

SOCIAL SECURITY ADMINISTRATION

Rate for Attorney Fee Assessment Beginning in 2003

AGENCY: Social Security Administration (SSA).

ACTION: Notice.

SUMMARY: The Social Security Administration is announcing that the attorney fee assessment rate under section 206(d) of the Act, 42 U.S.C. 406(d), is 6.3 percent for 2003.

FOR FURTHER INFORMATION CONTACT: John B. Watson, Social Security Administration, Office of the General Counsel, Phone: (410) 965–3137, email *John.Watson@ssa.gov*.

SUPPLEMENTARY INFORMATION: Section 406 of Pub. L. 106–170, the Ticket to Work and Work Incentives Improvement Act of 1999, established an assessment for the services required to determine and certify payments to attorneys from the benefits due claimants under Title II of the Act. This provision is codified in section 206 of the Act (42 U.S.C. 406). The legislation set the assessment for calendar year 2000 at 6.3 percent of the amount that would be required to be certified for direct payment to the attorney under section 206(a)(4) or 206(b)(1) before the application of the assessment. For subsequent years, the legislation requires the Commissioner of Social Security to determine the percentage rate necessary to achieve full recovery of the costs of determining and certifying fees to attorneys, but not in excess of 6.3 percent. The Commissioner of Social Security has determined, based on the best available data, that the current rate of 6.3 percent will continue for 2003. We will continue to review our costs on a yearly basis.

Dated: January 3, 2003.

Dale W. Sopper,

Acting Deputy Commissioner for Finance Assessment and Management.

[FR Doc. 03–538 Filed 1–10–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Noise Exposure Map Notice; Receipt of Noise Compatibility Program and Request for Review Arnold Palmer Regional Airport, Latrobe, Pennsylvania

AGENCY: Federal Aviation Administration (DOT).

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps (NEM) submitted by the Westmoreland County Airport Authority for the Arnold Palmer Regional Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96–193) and 14 CFR part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program (NCP) that was submitted for Arnold Palmer Regional Airport under part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before June 22, 2003.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps and of the start of its review of the associated noise compatibility program is December 24, 2002. The public comment period ends February 22, 2003.

FOR FURTHER INFORMATION CONTACT: James Byers, Federal Aviation Administration, Harrisburg Airports District Office, 3905 Hartzdale Drive, Camp Hill, PA 17011. Telephone (717) 730–2833. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for the Arnold Palmer Regional Airport are in compliance with applicable requirements of part 150, effective December 24, 2002. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before June 22, 2003. This notice also announces the availability of this program for public review and comment.

Under section 103 of Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as ''the Act''), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies, and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of Federal Aviation Regulations (FAR) part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The Westmoreland County Airport Authority submitted to the FAA on December 6, 2002 noise exposure maps, descriptions and other documentation which were produced during the Arnold Palmer Regional Airport part 150 Noise Compatibility Study conducted between March 1999 and November 2002. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the Westmoreland County Airport Authority. The specific maps under consideration are ''1999 Noise Exposure Map'' (NEM1) and ''2004 Noise Exposure Map'' (NEM2) with ''Recommended Noise Compatibility Program'' (NCP) in the submission. The documentation that constitutes the ''Noise Exposure Maps'' as defined in section 150.7 of part 150 includes: NEM1 and NEM2 contain current and forecast condition graphics such as depiction of the airport and its boundaries and runway configurations; land uses such as hospitals, libraries, churches, historical points, schools, nursing homes, commercial and industrial areas, community service areas, and residential areas; and the areas within the DNL 60, 65, 70 and 75. Estimates of the number of people residing within the DNL 60, 65, 70 and 75 are found in Table V–1. The locations of noise monitoring sites are found in Exhibit IV–6. Flight tracks for the existing condition and the five-year forecasted timeframes are found in Exhibits IV–3, IV–4, and IV–5. The type

and frequency of aircraft operations (including nighttime operations) are found in Tables IV–6, IV–7, and IV–8. The Westmoreland County Airport Authority has determined that single family residential land uses in the airport environs are generally incompatible with noise levels above DNL 60 dBA. The Authority proposes to work with members of the Unity Township Zoning Hearing Board and the Unity Township Board of Supervisors to adopt a more stringent designation of noncompatibility for Unity Township (see Table III–1 of the NCP) than the federal/FAA standards as expressed in Table 1 of FAR part 150.

Comparability of Conditions: Federal part 150 regulations require the preparation of noise exposure contours based on forecast aircraft operations at the airport for five years from the date of submission and that reasonable assumptions concerning fleet mix, flight patterns, and planned airport developments be incorporated. The initial schedule of the Arnold Palmer Regional Airport's Part 150 Study indicated that the Noise Exposure Maps would be submitted near the end of 1999. Therefore, 2004 operating levels were used for the Future NEM/NCP. The NEMs were ultimately submitted to the FAA in November 2000 and the NCP was submitted in March 2001. Subsequently, at the FAA's request, certain pages of the NEM and NCP reports were revised and resubmitted in February 2002. To address additional comments received on the NEM and NCP from the FAA Environmental and Airspace Divisions, the Westmoreland County Airport Authority prepared another revision in June 2002.

A comparison of the 2004 and 2008 forecasts was completed (*see* Table II–3 NEM report) and it was found that there would be less than 3 percent difference between the two conditions (2004 = 48,318 annual aircraft operations and 2008 = 49, 524 annual aircraft operations). The difference in aircraft operations between the two forecast years is 1,206 annual aircraft operations or approximately 3 operations per day. In addition, there is nothing to indicate that there would be significant changes in flight patterns, runway use, or fleet mix between 2004 and 2008. Therefore, the 2004 Future NEM/NCP noise contours are representative of 2007/2008 conditions as well. This determination is effective on December 24, 2002. FAA's determination on an airport operator's noise exposure maps is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR part 150. Such determination does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposures contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for Arnold Palmer Regional Airport, also effective on December 24, 2002. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before June 22, 2003.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR part 150, section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations: Westmoreland County Airport Authority, 200 Pleasant Unity Road Suite 103, Latrobe, PA 15650 and Federal Aviation Administration, Harrisburg Airports District Office, 3905 Suite 506, Hartzdale Drive, Camp Hill, PA 17011.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Camp Hill, Pennsylvania, December 24, 2002.

Sharon A. Daboin,

Manager Harrisburg Airports District Office.

[FR Doc. 03–653 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2002–70]

Petitions for Exemption; Summary of Petitions Received

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petition for exemption received.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption, part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of a certain petition seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before February 3, 2003.

ADDRESSES: Send comments on the petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–13875–1 at the beginning of your comments. If you wish to receive confirmation that the

FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to *http://dms.dot.gov.* You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Mark S. Orr (816–329–4151), Small Airplane Directorate (ACE–111), Federal Aviation Administration, 901 Locust, Kansas City, MO 64106; or Vanessa Wilkins (202–267–8029), Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on January 3, 2003.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2002–13875–1.

Petitioner: West Pacific Air, LLC.

Section of 14 CFR Affected: 14 CFR part 23, § 23.973(f).

Description of Relief Sought: West Pacific Air, LLC seeks exemption from 14 CFR 23.973(f) to install Pratt & Whitney Canada PT6 engines in Beech Model A36, A36TC, and B36TC airplanes. For the Beech Model A36, A36TC, and B36TC airplanes, the present fuel filler inside diameter is 2.375 inches to preclude the introduction of turbine engine fuel (Jet-A or similar) into the fuel system that supplies a reciprocating engine. The exemption will permit West Pacific Air, LLC to install Pratt & Whitney Canada PT6 engines in Beech Model airplanes without increasing the diameter of the fuel filler openings per § 23.973(f). The requested exemption from strict compliance with the requirement of 14 CFR part 23, § 23.973(f), is based on the following points: the large filler diameter will not preclude the introduction of Av-gas in a system intended for Jet-A, Av-gas is an approved emergency fuel for the PT6A–21 and –34 engines installed by this project; consequently it is not possible to misfuel this aircraft; all fuel tank fillers will be placarded for Jet-A, which will fulfill the goal of providing a visual cue for the use of Jet-A-fuel; and the modified fuel system will be tested to the pressure requirements associated with the worse case fuel (100LL Av-gas) to ensure that a mistaken introduction of this fuel will not have a detrimental effect on engine performance or safety of flight.

[FR Doc. 03–657 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Program Management Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Program Management Committee meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of the RTCA Program Management Committee.

DATES: The meeting will be held January 23, 2003 starting at 9:00 a.m.

ADDRESSES: The meeting will be held at RTCA, Inc. 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW, Suite 850, Washington, DC 20036, telephone (202)833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (P.L. 92–463), 5 U.S.C., Appendix 2), notice is hereby given for a Program Management Committee meeting. The agenda will include:

- January 23:
- Opening Session (Welcome and Introductory Remarks, Review/ Approve Summary of Previous Meeting)
- Publication Consideration/Approval
  - Final Draft, Next Generation Air/ Ground Communication System (NEXCOM) Safety and Performance Requirements (SPR), RTCA Paper No. 263–02/PMC–246, prepared by SC–198.
- Discussion:
  - Special Committee Chairman's Reports
- Action Item Review:
  - Action Item 02–02—Electronic Flight Bag (EFB) Activities Necessity for PMC Ad Hoc Group to Interpret/Review Committee Tasks
- Other Business:
  - EUROCAE Activity
- Closing Session (Other Business, Document Production, Date and Place of Next Meeting, Adjourn)

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 30, 2002.

Janice L. Peters,

FAA Special Assistant, RTCA Advisory Committee.

[FR Doc. 03–652 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In November 2002, there were five applications approved. This notice also includes information on four applications, approved in October 2002, inadvertently left off the October 2002 notice. Additionally, ten approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Jackson Hole Airport Board, Jackson, Wyoming.

Application Number: 02–08–C–00–JAC.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $953,023.

Earliest Charge Effective Date: December 1, 2002.

Estimated Charge Expiration Date: November 1, 2004.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Aircraft parking apron expansion.
Security improvements.
Friction measuring equipment.
Snow removal equipment.
Terminal design.

Decision Date: October 1, 2002.

FOR FURTHER INFORMATION CONTACT: Christopher Schaffer, Denver Airports District Office, (303) 342–1258.

Public Agency: City of Chicago—Department of Aviation, Chicago, Illinois.

Application Number: 02–14–C–00–ORD.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $2,565,000.

Earliest Charge Effective Date: December 1, 2016.

Estimated Charge Expiration Date: February 1, 2017.

Class of Air Carriers Not Required to Collect PFC's: Air taxi.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Chicago O'Hare International Airport (ORD).

Brief Description of Projects Approved for Collection at ORD and Use at Gary/Chicago Airport:

Acquire snow removal equipment (snow broom).

Expand snow removal equipment building.

Rehabilitate runway 12/30.

Terminal apron expansion and loading bridge installation.

Decision Date: October 22, 2002.

FOR FURTHER INFORMATION CONTACT: Philip M. Smithmeyer, Chicago Airports District Office, (847) 294–7335.

Public Agency: City of Minot, North Dakota.

Application Number: 02–06–C–00–MOT.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $2,432,182.

Earliest Charge Effective Date: April 1, 2003.

Estimated Charge Expiration Date: July 1, 2011.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operating filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Minot International Airport.

Brief Description of Projects Approved for Collection and Use:

Runway 13/31 reconstruction, runway 13/31 and taxiway C translation and extension, associate taxiway reconstruction, other associated installations and relocations, and project implementation.

Land avigation easements.

Friction measuring equipment.

Install airport perimeter fencing and associated outflow attenuation structures.

Preparation of PFC amendment ($3.00 to $4.50).

Preparation of PFC.

Snow removal equipment.

Construct 48-inch storm sewer.

Decision Date: October 22, 2002.

FOR FURTHER INFORMATION CONTACT: Steven J. Obenauer, Bismarck Airports District Office, (701) 323–7380.

Public Agency: Huntsville-Madison County Airport Authority, Huntsville, Alabama.

Application Number: 02–12–C–00–HSV.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $2,649,591.

Earliest Charge Effective Date: September 1, 2004.

Estimated Charge Expiration Date: September 1, 2005.

Classes of Air Carriers Not Required to Collect PFC's: (1) Air taxi/commercial operators; and (2) certified route air carriers having fewer than 500 annual passenger enplanements.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that each approved class accounts for less than 1 percent of the total annual enplanements at Huntsville International Airport.

Brief Description of Projects Approved for Collection and Use:

West runway extension to 12,600 feet.

Noise mitigation/land acquisition (Murphy property—101.7 acres).

Security vehicle.

Decision Date: October 30, 2002.

FOR FURTHER INFORMATION CONTACT: Keafur Grimes, Jackson Airports District Office, (601) 664–9886.

Public Agency: Airport Authority of Washoe County, Reno, Nevada.

Application Number: 02–06–C–00–RNO.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $10,000,000.

Earliest Charge Effective Date: February 1, 2003.

Estimated Charge Expiration Date: November 1, 2003.

Class of Air Carriers Not Required to Collect PFC's: Nonscheduled/on-demand air carriers filing FAA Form 1800–31.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Reno/Tahoe International Airport.

Brief Description of Project Approved for Collection and Use: Acquisition of Lazovich and B&C properties.

Decision Date: November 5, 2002.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, San Francisco Airports District Office, (650) 876–2806.

Public Agency: City of Pierre, South Dakota.

Application Number: 02–01–C–00–PIR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in This Decision: $366,239.

Earliest Charge Effective Date: February 1, 2003.

Estimated Charge Expiration Date: June 1, 2008.

Class of Air Carriers Not Required to Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Preparation of initial PFC.

Rehabilitation of runway 7/25.

Taxiway C reconstruction.

General aviation ramp replacement.

Snow removal equipment.

Passenger loading ramp.

Air carrier terminal apron construction/rehabilitation.

Update airport master plan and airport layout plan.

Perimeter wildlife fence and airport boundary fence.

General aviation apron improvements.

Decision Date: November 6, 2002.

FOR FURTHER INFORMATION CONTACT: Thomas T. Schauer, Bismarck Airports District Office, (701) 323–7380.

Public Agency: Gallatin Airport Authority, Belgrade, Montana.

Application Number: 02–02–C–00–BZN.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,790,000.

Earliest Charge Effective Date: May 1, 2003.

Estimated Charge Expiration Date: April 1, 2006.

Class or Air Carriers Not Required to Collect PFC'S: Air taxi/ commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent to the total annual enplanements at Gallatin Field Airport.

Brief Description of Projects Approved for Collection and Use:

Equipment storage building.

Terminal ramp expansion.

Broom/sweeper.

Taxiway and apron resurfacing.
Runway 12/30 resurfacing.
Decision Date: November 22, 2002.

FOR FURTHER INFORMATION CONTACT: David S. Stelling, Helena Airports District Office, (406) 449–5271.

Public Agency: Jackson County Airport Authority, Medford, Oregon.
Application Number: 02–08–C–00–MFR.
Application Type: Impose and use of PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $105,000.
Earliest Charge Effective Date: May 1, 2004.
Estimated Charge Expiration Date: July 1, 2004.
Class of Air Carriers Not Required to Collect PFC'S: Operations by air taxi/commercial operators when enplaning revenue passengers in limited, irregular, special service air taxi/commercial operations such as air ambulance services, student instruction, non-stop sightseeing flights that begin and end at the airport and are concluded within a 25-mile radius of the airport.
Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Rogue valley International—Medford Airport.
Brief Description of Project Approved for Collection and Use: Security enhancements.
Decision Date: November 22, 2002

FOR FURTHER INFORMATION CONTACT: Suzanne Lee-Pang, Seattle Airports District Office, (425) 227–2654.

Public Agency: Bradford Regional Airport Authority, Lewis Run, Pennsylvania.
Application Number: 02–02–C–00–BFD.
Application Type: Impose and use a PFC.
PFC Level: $4.50.
Total PFC Revenue Approved in This Decision: $414,738.
Earliest Charge Effective Date: May 1, 2003.
Estimated Charge Expiration Date: December 1, 2009.
Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operations filing FAA Form 1800–31.
Determination: Approved. Based on the information in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Bradford Regional Airport.
Brief Description of Projects Approved for Collection and Use:
Passenger chairlift.
T-Hangar taxiway and drainage swale.
Runway 5/23 lighting.
Parallel taxiway to runway 32 phase I.
Water treatment plant upgrade.
Parallel taxiway runway 14, phase II.
Airport master plan.
Rehabilitate taxiways A and B.
Rehabilitate taxiways.
Acquire multi-purpose safety vehicle.
Conduct 5 year environmental assessment.
Rehabilitate runway 5/23/improve runway 5 end safety area.
Snow removal equipment—tractor and plow.
Snow removal equipment—plow.
PFC application formulation and administration.
Brief Description of Projects Approved for Collection:
Deicing equipment/facility.
Rehabilitate access road.
Land acquisition/obstruction removal.
Runway 32 safety area, phase II.
Decision Date: November 22, 2002.

FOR FURTHER INFORMATION CONTACT: Lori Ledebohm, Harrisburg Airports District Office, (717) 730–2835.

AMENDMENTS TO PFC APPROVALS

Amendment No., city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date.
*00–03–C–01–EAT, Wenatchee, WA	04/08/02	$240,687	$312,087	10/01/02	02/01/03
98–01–C–02–HRL, Harlingen, TX	10/24/02	4,166,654	4,247,721	01/01/02	01/01/02
01–04–C–01–RIC, Richmond, VA	11/04/02	4,570,342	3,900,333	11/01/16	09/01/16
98–07–I–04–PHL, Philadelphia, PA	11/07/02	946,267,790	986,693,869	02/01/11	12/01/12
99–08–U–03–PHL, Philadelphia, PA	11/07/02	NA	NA	02/01/11	12/01/12
94–01–C–04–MOD, Modesto, CA	11/08/02	204,806	227,249	05/01/99	05/01/99
97–03–C–01–ONT, Ontario, CA	11/08/02	45,680,000	80,680,000	01/01/03	09/01/05
94–01–C–03–TUP, Tupelo, MS	11/15/02	430,550	457,216	03/01/04	06/01/03
98–02–U–02–TUP, Tupelo, MS	11/15/02	NA	NA	03/01/04	06/01/03
01–07–C–01–CRW, Charleston, WV	11/21/02	1,456,248	1,456,248	09/01/03	04/01/03

Note: The amendments denoted by an asterisk (*) include a change to the PFC level charged from $3.00 per enplaned passenger to $4.50 per enplaned passenger. For Wenatchee, WA, this change is effective on July 1, 2002.

Issued in Washington, DC on January 6, 2003.

Barry Molar,

Manager, Airports Financial Assistance Division.

[FR Doc. 03–654 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Tyler Pounds Regional Airport, Tyler, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tyler Pounds Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before February 12, 2003.

ADDRESSES: Comments on this application may be mailed or delivered

in triplicate copies to the FAA at the following address: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611; Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Davis Dickson, Manager of Tyler Pounds Regional Airport at the following address: Airport Manager, Tyler Pounds Regional Airport, 700 Skyway Blvd., Suite 201, Tyler, TX 75704.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under § 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Wade, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–611, Fort Worth, Texas 76193–0610, (817) 222–5613.

This application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Tyler Pounds Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On December 23, 2002 the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than April 15, 2003.

The following is a brief overview of the application.

Level of the proposed PFC: $4.50.

Proposed charge effective date: April 1, 2008.

Proposed charge expiration date: February 1, 2017.

Total estimated PFC revenue: $2,140,662.

PFC application number: 03–04–C–00–TYR.

Brief description of proposed project(s):

Projects To Impose and Use PFC's

1. Acquire and Install One Passenger Loading Bridge
2. Construct Terminal Apron and Security Fencing
3. Terminal Site Clearing and Utility Site Preparation
4. Construct Terminal Building
5. Seal Coat Runway 4/22
6. PFC Application and Administrative Fees

Proposed class or classes of air carriers to be exempted from collecting PFC's: None.

Any person may inspect the application in person a the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Tyler Pounds Regional Airport.

Issued in Fort Worth, Texas on December 24, 2002.

Joseph G. Washington,

Acting Manager, Airports Division.

[FR Doc. 03–655 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Draft Programmatic 4(f) Evaluation and Approval for Federal Highway Administration (FHWA) Projects That Necessitate the Use of Bridges Over the National Register of Historic Places (NRHP) Listed or Eligible New York State Canal System (Historic Canal System)

This statement sets forth the basis for a programmatic section 4(f) evaluation and approval that there are no feasible and prudent alternatives to the use of bridges eligible for or listed on the NRHP (Historic Bridges) over the Historic Canal System to be replaced with Federal transportation funds and that the projects include all possible planning to minimize harm resulting from such use. This programmatic 4(f) evaluation satisfies the requirements of section 4(f) for all projects that meet the applicability criteria listed below. No individual section 4(f) evaluation needs to be prepared for such projects. This approval is made pursuant to section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303, and section 18(a) of the Federal-Aid Highway Act of 1968, 23 U.S.C. 138.

Use

This programmatic 4(f) evaluation is to be used in conjunction with 36 CFR part 800 Programmatic Agreement for Bridges over the New York State Canal System (Canal Agreement) executed April 16, 2001. The Canal Agreement satisfies the section 106 requirements for canal bridge projects developed and agreed to be the FHWA, the New York State Department of Transportation (NYSDOT), the State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP). The evaluation of alternatives and documentation prepared for the section 106 process shall be used as the basis for the FHWA finding that there are no prudent and feasible alternatives to the use of the affected bridge on the Historic Canal System.

The resources covered by this programmatic section 4(f) evaluation include Historic Bridges which are eligible for the NHRP as contributing elements to the Historic Canal System. Though these Historic Bridges are on the Historic Canal System, they must perform as an integral part of a modern transportation system. When they do not or cannot, they must be replaced in order to assure public safety while maintaining system continuity and integrity. For the purpose of this programmatic section 4(f) evaluation, a proposed action will constitute a ''use'' of a Historic Bridge that is on the Historic Canal System when the action will have an adverse effect as applied by the requirements of section 106 of the National Historic Preservation Act and 36 CFR part 800. Rehabilitation of a Historic Bridge will rarely constitute an adverse effect on the Historic Canal System.

Applicability

This programmatic section 4(f) evaluation may be applied by the FHWA to projects or approvals which meet the following criteria:

1. The Historic Bridge is to be replaced or rehabilitated with Federal funds.

2. The project will require the use of a Historic Bridge that is on the Historic Canal System.

3. The project will have an adverse effect on Historic Bridges and/or the Historic Canal System.

4. The bridge is not a National Historic Landmark.

5. The project will not impact any areas of archaeological sensitivity that have the potential to yield sites containing important research information. If a site exists, it does not warrant preservation in place as: (1) It is not considered valuable for its permanent *in-situ* public interpretive value, (2) the technology exists for satisfactory data recovery (even if data

recovery is not determined appropriate treatment at this time, (3) the site has no traditional cultural significance to Indian tribes, and (4) the site does not contain or is unlikely to contain human remains, funerary objects, sacred objects or items of cultural patrimony as defined by the Native American Graves Protection and Repatriation Act of 1990.

6. The FHWA Division Administrator determines that the facts of the project match those set forth in the sections of this document labeled Alternatives, Findings, and Measures to Minimize Harm.

7. Agreement among the FHWA, NYSDOT, the State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (ACHP) has been reached through the Programmatic Agreement for Historic Bridges over the Historic Canal System or individually through procedures pursuant to section 106 of the NHPA.

Alternatives

The following alternatives avoid any use of the historic resource:

1. Do nothing.

2. Replacement of the same design type (*i.e.,* build a new truss bridge to replace a truss bridge that is not individually eligible on the NRHP.)

3. Build a new structure at a different location without affecting the integrity of the Historic Bridge, or the Historic Canal System as determined by the Canal Agreement or procedures individually implementing the NHPA.

4. Rehabilitation, including minor widening, of an existing bridge without affecting its visual characterization from the shore and the canal.

5. Removal of a bridge that does not contribute to the Historic Canal System.

6. Sale or transfer of ownership of a Historic Bridge with covenant to retain its character.

7. Rehabilitation of an individually eligible Historic Bridge without affecting the historic integrity of the bridge or of the Historic Canal System, as determined by the Canal Agreement or procedures individually implementing the NHPA.

This list is intended to be all-inclusive. The programmatic section 4(f) evaluation does not apply if a reasonable alternative is identified that is not discussed in this document. The project record must clearly demonstrate that each of the above alternatives was fully evaluated and it must further demonstrate that all applicability criteria listed above were met before the FHWA Division Administrator concluded that the programmatic section 4(f) evaluation applied to the project.

Findings

In order for this programmatic section 4(f) evaluation to be applied to a project, each of the following findings must be supported by the circumstances, studies, and consultations on the project:

1. *Do Nothing.* The do nothing alternative has been studied. The do nothing alternative ignores the basic transportation need. For the following reasons this alternative is not feasible and prudent:

a. Maintenance—The do nothing alternative does not correct the situation that causes the Historic Bridge to be considered structurally deficient or deteriorated. These deficiencies can lead to sudden collapse and potential injury or loss of life. Normal maintenance is not considered adequate to cope with the situation.

b. Safety—The do nothing alternative does not correct the situation that causes the Historic Bridge to be considered deficient. Because of these deficiencies the bridge poses serious and unacceptable safety hazards to the traveling public or places intolerable restriction on transport and travel.

2. *Build on New Location Without Using the Historic Bridge.* Investigations have been conducted to construct a bridge on a new location or parallel to the Historic Bridge (allowing for a one-way couplet), but for one or more of the following reasons, this alternative is not feasible and prudent:

a. Terrain—The present bridge structure has already been located at the only feasible and prudent site, *i.e.,* a gap in the land form, the narrowest point of the river canyon, etc. Construction of a new bridge at another site will result in extraordinary bridge and roadway approach costs, extraordinary difficulty of construction, and/or extraordinary disruption to established traffic patterns.

b. Adverse Social, Economic, or Environmental Effects—Building a new bridge away from the present site would result in social, economic, or environmental impact of extraordinary magnitude. Such impacts as extensive severing of productive farmlands, displacement of a significant number of families or businesses, serious disruption of established travel patterns, and access and damage to wetlands may individually or cumulatively weigh heavily against relocation to a new site.

c. Engineering and Economy—Where difficulty associated with the new location is less extreme than those encountered above, a new site would not be feasible and prudent where cost and engineering difficulties reach extraordinary magnitude. Factors supporting this conclusion include significantly increased roadway and structure costs, serious foundation problems, or extreme difficulty in reaching the new site with construction equipment. Additional design and safety factors to be considered include an ability to achieve minimum design standards or to meet requirements of various permitting agencies such as those involved with navigation, pollution, and the environment.

d. Preservation of the Historic Bridge—It is not feasible and prudent to preserve the existing bridge, even if a new bridge were to be built at a new location. This could occur when the Historic Bridge is beyond rehabilitation for a transportation or an alternative use, when no responsible party can be located to maintain and preserve the bridge, or when a permitting authority requires removal or demolition of the Historic Bridge.

3. *Rehabilitation without affecting the historic integrity of the bridge.* Studies of rehabilitation measures have been conducted, but, for one or more of the following reasons, this alternative is not feasible and prudent:

a. The Historic Bridge is so structurally deficient that it cannot be rehabilitated to meet minimum acceptable load requirements without affecting the historic integrity of the bridge.

b. The Historic Bridge is seriously deficient geometrically and cannot be widened to meet the minimum required capacity of the highway system on which it is located without affecting the historic integrity of the bridge. Flexibility in the application of the American Association of State Highway and Transportation Officials geometric standards should be exercised as permitting in 23 CFR part 625 during the analysis of this alternative.

Measures To Minimize Harm

This programmatic section 4(f) evaluation and approval may be used only for projects where the FHWA Division Administrator, in accordance with this evaluation, ensures that the proposed action includes all possible planning to minimize harm. This has occurred when:

1. For bridges that are to be rehabilitated, the historic integrity of the bridge is preserved, to the greatest extent possible, consistent with unavoidable transportation needs, safety, and load requirements;

2. FHWA ensures that, in accordance with the Canal Agreement, the Historic

American Engineering Record (HAER) standard records appropriate for documentation of the bridges are prepared for bridges that are removed, demolished, or are rehabilitated to the point that the historic integrity is affected.

3. For bridges that are to be replaced, the existing bridge is made available for an alternative use, provided a responsible party agrees to maintain and preserve the bridge; and

4. For bridges that are adversely affected, agreement among the NYSDOT, SHPO, and FHWA, is reached through the Canal Agreement, or through procedures individually implementing the NHPA, on measures to minimize harm and those measures are incorporated into the project. This programmatic section 4(f) evaluation does not apply to projects where such an agreement cannot be reached.

Procedures

This programmatic section 4(f) evaluation applies only when the FHWA Division Administrator:

1. Determines that the project meets the applicability criteria set forth above;

2. Determines that all of the alternatives set forth in the findings section have been fully evaluated;

3. Determines by use of the findings in this document that there are no feasible and prudent alternatives to the use of the historic bridge;

4. Determines that the project complies with the Measures to Minimize Harm section of this document;

5. Assures that implementation of the measures to minimize harm is completed;

6. Documents in the project file that the programmatic section 4(f) evaluation applies to the project on which it is to be used and;

7. Insures that the provisions of the Canal Agreement are followed to protect the integrity of the Historic Bridge and Historic Canal System.

Coordination

The Programmatic Agreement concerning Historic Bridges over the Historic Canal System is being coordinated with the New York State Department of Transportation and the New York State Historic Preservation Officer. Pursuant to section 4(f), this programmatic agreement is being coordinated with the New York State Department of Transportation, the New York State Canal Corporation, and Departments of the Interior, Agriculture, and Housing and Urban Development.

Before applying this programmatic evaluation to projects requiring an individual bridge permit, the District Administrator shall coordinate with the U.S. Coast Guard District Commander.

Issued on January 6, 2003.

Vincent P. Barone,

Assistant Division Administrator, New York Division, Federal Highway Administration.

[FR Doc. 03–571 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket Nos. FMCSA–2000–7165, FMCSA–2000–7363, and FMCSA–2000–8203]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: This notice publishes the FMCSA's decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for nine individuals.

DATES: This decision is effective January 13, 2003. Comments from interested persons should be submitted by February 12, 2003.

ADDRESSES: You can mail or deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. You can also submit comments at *http://dms.dot.gov*. Please include the docket numbers that appear in the heading of this document in your submission. You can examine and copy this document and all comments received at the same Internet address or at the Dockets Management Facility from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov*.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987, FMCSA, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Exemption Decision

Under 49 U.S.C. §§ 31315 and 31136(e), the FMCSA may renew an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles in interstate commerce, for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for receiving an exemption (including renewals) are set out in 49 CFR Part 381. This notice addresses nine individuals who have requested renewal of their exemptions in a timely manner. The FMCSA has evaluated these nine petitions for renewal on their merits and decided to extend each exemption for a renewable 2-year period. They are:

Timothy J. Bryant	Thomas D. Laws	Clifford C. Priesmeyer.
Robert J. Johnson	Leo L. McMurray	George S. Rayson.
Charles R. Kuderer	Jimmy R. Millage	Gerald R. Rietmann.

These exemptions are extended subject to the following conditions: (1) That each individual have a physical exam every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's

or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for 2 years unless rescinded earlier by the FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136(e).

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than 2 years from its approval date and may be renewed upon application for additional 2-year periods. In accordance with 49 U.S.C. 31315 and 31136(e), each of the nine applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 30285, 63 FR 54519, 65 FR 33406, 65 FR 57234, 65 FR 45817, 65 FR 77066), and three of the applicants have previously satisfied the conditions for renewing an exemption (65 FR 66293, 65 FR 77069). Each of these nine applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past 2 years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, the FMCSA concludes that extending the exemption for a period of 2 years is likely to achieve a level of safety equal to that existing without the exemption for each renewal applicant.

Comments

The FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31315 and 31136(e). However, the FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by February 12, 2003.

In the past the FMCSA has received comments from Advocates for Highway and Auto Safety (Advocates) expressing continued opposition to the FMCSA's procedures for renewing exemptions from the vision requirement in 49 CFR 391.41(b)(10). Specifically, Advocates objects to the agency's extension of the exemptions without any opportunity for public comment prior to the decision to renew and reliance on a summary statement of evidence to make its decision to extend the exemption of each driver.

The issues raised by Advocates were addressed at length in 66 FR 17994 (April 4, 2001). The FMCSA continues to find its exemption process appropriate to the statutory and regulatory requirements.

Issued on: January 7, 2003.

Brian M. McLaughlin,

Associate Administrator, Policy and Program Development.

[FR Doc. 03–579 Filed 1–10–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 2, 2003.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before February 10, 2003 to be assured of consideration.

Financial Crimes Enforcement Network (FinCEN)

OMB Number: 1506–0020.

Form Number: None.

Type of Review: Extension.

Title: Anti-Money Laundering Programs for Money Services, Businesses, Mutual Funds, and Operators of Credit Card Systems.

Description: This information collection, which applies to money services businesses, mutual funds, and operators of credit card systems, will help to ensure that such entities are not used to facilitate money laundering or terrorist financing, and will enable federal agencies to examine such entities for compliance with the anti-money laundering program requirements.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 203,006.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Estimated Total Reporting/Recordkeeping Burden: 20,000 hours.

Clearance Officer: Steve Rudzinski, (703) 905–3845, Financial Crimes Enforcement Network, 2070 Chain Bridge Road, Suite 200, Vienna, VA 22182.

OMB Reviewer: Joseph F. Lackey, Jr., (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 03–560 Filed 1–10–03; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 03–03]

Recordation of Trade Name: ''ORTHOTEC''

AGENCY: Customs Service, Treasury.

ACTION: Notice of final action.

SUMMARY: This document provides notice that ''ORTHOTEC'' is recorded by Customs as the trade name for Orthotec, L.L.C., a Delaware Limited Liability Company organized under the laws of the State of Delaware, located at 9595 Wilshire Blvd., Suite 502, Beverly Hills, California 90212. This application for trade name recordation was properly submitted to Customs and published in the **Federal Register**. As no public comments in opposition to the recordation of this trade name was received by Customs within the 60-day comment period, the trade name is duly recorded with Customs and will remain in force as long as this trade name is used by this corporation, unless other action is required.

EFFECTIVE DATE: January 7, 2003.

FOR FURTHER INFORMATION CONTACT: Gwendolyn Savoy, Intellectual Property Rights Branch, Office of Regulations & Rulings, U.S. Customs Service, 1300

Pennsylvania Avenue, NW., (Mint Annex) Washington, DC 20229; (202) 572–8710.

SUPPLEMENTARY INFORMATION:

Background

Trade names adopted by business entities may be recorded with Customs to afford the particular business entity with increased commercial protection. Customs procedure for recording trade names is provided at § 133.12 of the Customs Regulations (19 CFR 133.12) pursuant to section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124). Pursuant to this regulatory provision, the Orthotec, L.L.C., a Delaware Limited Liability Company organized under the laws of the State of Delaware, and located at 9595 Wilshire Blvd., Suite 502, Beverly Hill, California 90212, applied to Customs for protection of its trade name ''ORTHOTEC''.

On Thursday, November 7, 2002, a notice of application for the recordation of the trade name ''ORTHOTEC'' was published in the **Federal Register** (67 FR 67894). The notice advised that before final action was taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name and received not later than January 6, 2003. The comment period closed January 6, 2003. No comments were received during the comment period. Accordingly, as provided by § 133.12 of the Customs Regulations, ''ORTHOTEC'' is recorded with Customs as the trade name of Orthotec, L.L.C., and will remain in force as long as this trade name is used by this corporation, unless other action is required.

The trade name is used on medical devices, more specifically, surgical implants made of stainless steel or titanium for spinal surgery, comprised of hooks, bolts, screws, rods, instruments and containers to hold the goods and instruments.

Dated: January 7, 2003.

Joanne Roman Stump,

Chief, Intellectual Property Rights Branch.

[FR Doc. 03–648 Filed 1–10–03; 8:45 am]

BILLING CODE 4820–02–P

Corrections

Federal Register

Vol. 68, No. 8

Monday, January 13, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[PA181–4181a; FRL–7399–4]

Approval and Promulgation of Air Quality Implementation Plans; Designation of Areas for Air Quality Planning Purposes; Pennsylvania; Redesignation of the Allegheny County Carbon Monoxide Nonattainment Area and Approval of Miscellaneous Revisions

Correction

In rule document 02–28495 beginning on page 68521 in the issue of Tuesday, November 12, 2002, make the following correction:

§ 81.339 [Corrected]

On page 68526, in the table, in § 81.339, in the second column, under the date heading, ''1/13/02'' should read, ''1/13/03.''

[FR Doc. C2–28495 Filed 1–10–03; 8:45 am]

BILLING CODE 1505–01–D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 73 and 76

[MM Docket No. 98–204; FCC–02–303]

RIN 4223

Review of the Commission's Broadcast and Cable Equal Employment Opportunity Rules and Policies

Correction

Federal Register document 02–32474 was inadvertently published in the Rules and Regulations section in the issue of Tuesday, December 24, 2002, on pages 78387–78388. It should have appeared in the Proposed Rules section.

[FR Doc. C2–32474 Filed 1–10–03; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF PERSONNEL MANAGEMENT

Federal Employees' Group Life Insurance Program: New Age Bands and New Premiums

Correction

In notice document 02–32891 beginning on page 79659 in the issue of Monday, December 30, 2002 make the following corrections:

1. On page 79660, in the second column, in the 14th line, ''not'' should read, ''no''.

2. On the same page, in the same column, in the 19th line, ''declaining'' should read, ''declining''.

3. On the same page, in the third column, in the first full paragraph, in the fourth line, ''not'' should read, ''no''.

4. On the same page, in the same column, in the same paragraph, in the 10th line, ''increases'' should read, ''increase''.

5. On the same page, in the same column, the second full paragraph, in the second line ''(Ages s70–74)'' should read, ''(Ages 70–74)''.

6. On the same page, in the same column, in the same paragraph, in the third line, ''Ages 80 & Over)'' should read, ''(Ages 80 & Over)''.

[FR Doc. C2–32891 Filed 1–10–03; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14089; Airspace Docket No. 02–ACE–13]

Modification of Class E Airspace; Caruthersville, MO

Correction

In rule document 03–61 beginning on page 490 in the issue of Monday, January 6, 2003, make the following corrections:

1. On page 490, in the third column, under the heading **The Direct Final Rule Procedure**, in the ninth line, ''designation'' should read, ''designating''.

2. On the same page, in the same column, under the same heading, in the 21st line, ''below'' should read, ''above''.

3. On the same page, in the same column, under the heading **Comments Invited**, in the fitfh line, ''basic'' should read, ''basis''.

[FR Doc. C3–61 Filed 1–10–03; 8:45 am]

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Federal Register

Monday,

January 13, 2003

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Industrial/Commercial/Institutional Boilers and Process Heaters; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2002–0058; FRL–7418–9]

RIN 2060–AG69

National Emission Standards for Hazardous Air Pollutants for Industrial/ Commercial/Institutional Boilers and Process Heaters

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing national emission standards for hazardous air pollutants (NESHAP) for industrial/ commercial/institutional boilers and process heaters. The EPA has identified industrial/commercial/ institutional boilers and process heaters as major sources of hazardous air pollutants (HAP) emissions. The proposed rule would implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources to meet HAP emissions standards reflecting the application of the maximum achievable control technology (MACT). The proposed rule would reduce HAP emissions by 58,000 tons per year, hydrogen chloride—a substance that is not considered to be a carcinogen—accounts for 42,000 tons per year (72 percent) of total HAP emissions reductions. The proposed rule would protect air quality and promote the public health by reducing emissions of some of the HAP listed in section 112(b)(1) of the CAA.

The HAP emitted by facilities in the boiler and process heater source category include arsenic, cadmium, chromium, hydrogen chloride (HCl), hydrogen fluoride, lead, manganese, mercury, and nickel. Exposure to these substances has been demonstrated to cause adverse health effects such as irritation to the lung, skin, and mucus membranes, effects on the central nervous system, kidney damage, and cancer. The adverse health effects associated with the exposure to these specific HAP are further described in this preamble. In general, these findings have only been shown with concentrations higher than those typically in the ambient air.

DATES: *Comments.* Submit comments on or before March 14, 2003.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by February 3, 2003, a public hearing will be held on February 12, 2003.

ADDRESSES: *Comments.* Comments may be submitted by mail (in duplicate, if possible) to EPA Docket Center (Air Docket), U.S. EPA West (MD–6102T), Room B–108, 1200 Pennsylvania Avenue, NW, Washington, DC 20460, Attention Docket ID No. OAR–2002–0058. By hand delivery/courier, comments may be submitted (in duplicate, if possible) to EPA Docket Center, Room B–108, U.S. EPA West, 1301 Constitution Avenue, NW, Washington, DC 20460, Attention Docket ID No. OAR–2002–0058. Also, comments may be submitted electronically according to the detailed instructions as provided in the **SUPPLEMENTARY INFORMATION** section.

Public Hearing. If a public hearing is held, it will be held at the new EPA facility complex in Research Triangle Park, North Carolina, or an alternate site nearby.

Docket. Docket ID No. OAR–2002–0058 contains supporting information used in developing the proposed rule. The docket is located at the U.S. EPA, 1301 Constitution Avenue, NW, Washington, DC 20460 in room B108, and may be inspected from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Jim Eddinger, Combustion Group, Emission Standards Division (C439–01), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5426, fax number (919) 541–5450, e-mail: *eddinger.jim@epa.gov.*

SUPPLEMENTARY INFORMATION: *Regulated Entities.* The promulgation of the proposed rule would affect the following North American Industrial Classification System (NAICS) and Standard Industrial Classification (SIC) codes.

Category	NAICS code	SIC code	Examples of potentially regulated entities
Any industry using a boiler or process heater as defined in the proposed rule.	211	13	Extractors of crude petroleum and natural gas.
	321	24	Manufacturers of lumber and wood products.
	322	26	Pulp and paper mills.
	325	28	Chemical manufacturers.
	324	29	Petroleum refineries, and manufacturers of coal products.
	316, 326, 339	30	Manufacturers of rubber and miscellaneous plastic products.
	331	33	Steel works, blast furnaces.
	332	34	Electroplating, plating, polishing, anodizing, and coloring.
	336	37	Manufacturers of motor vehicle parts and accessories.
	221	49	Electric, gas, and sanitary services.
	622	80	Health services.
	611	82	Educational services.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists examples of the types of entities EPA is now aware could potentially be regulated by this action. Other types of entities not listed could also be affected. To determine whether your facility, company, business, organization, *etc.,* is regulated by this action, you should examine the applicability criteria in § 63.7485 of the proposed rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

How Can I Get Copies of This Document and Other Related Information?

Docket. The EPA has established an official public docket for this action under Docket ID No. OAR–2002–0058. The official public docket consists of the documents specifically referenced in this action, any public comments

received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Air and Radiation Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B108, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Access. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. The EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above. The EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or on paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

For additional information about EPA's electronic public docket, visit EPA Dockets online or see 67 FR 38102, May 31, 2002.

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' The EPA is not required to consider these late comments. However, late comments may be considered if time permits.

Electronically. If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. The EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket,* and follow the online instructions for submitting comments. To access EPA's electronic public docket from the EPA Internet Home Page, select ''Information Sources,'' ''Dockets,'' and ''EPA Dockets.'' Once in the system, select ''search,'' and then key in Docket ID No. OAR–2002–0058. The system is an anonymous access system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

Comments may be sent by electronic mail (e-mail) to *a-and-r-docket@epa.gov,* Attention Docket ID No. OAR–2002–0058. In contrast to EPA's electronic public docket, EPA's e-mail system is not an anonymous access system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket and made available in EPA's electronic public docket.

You may submit comments on a disk or CD ROM that you mail to the mailing address identified below. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

By Mail. Send your comments (in duplicate if possible) to: Air and Radiation Docket and Information Center, U.S. EPA, Mailcode: 6102T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. OAR–2002–0058. The EPA requests a separate copy also be sent to the contact person listed above (see **FOR FURTHER INFORMATION CONTACT**).

By Hand Delivery or Courier. Deliver your comments to: EPA Docket Center, Room B108, 1301 Constitution Ave., NW., Washington, DC, Attention Docket ID No. OAR–2002–0058. Such deliveries are only accepted during the Docket's

normal hours of operation as identified above.

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. Send or deliver information identified as CBI only to the following address: Mr. Jim Eddinger, c/o OAQPS Document Control Officer (Room C404–2), U.S. EPA, Research Triangle Park, 27711, Attention Docket ID No. OAR–2002–0058. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at your estimate.

5. Provide specific examples to illustrate your concerns.

6. Offer alternatives.

7. Make sure to submit your comments by the comment period deadline identified.

8. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your response. It would also be helpful if you provided the name, date, and **Federal Register** citation related to your comments.

Public Hearing. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Kelly Hayes, Combustion Group, Emission Standards Division (C439–01), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone (919) 541–5578 at least 2 days in advance of the public hearing. Persons interested in attending the public hearing must also call Ms. Kelly Hayes to verify the time, date, and location of the hearing.

The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed rule. If a public hearing is requested and held, EPA will ask clarifying questions during the oral presentation but will not respond to the presentations or comments. Written statements and supporting information will be considered with equivalent weight as any oral statement and supporting information presented at a public hearing, if held.

Outline. The information presented in this preamble is organized as follows:

I. Background Information

A. What Criteria Are Used in the Development of NESHAP?

Section 112 of the CAA requires EPA to promulgate regulations for the control of HAP emissions from each source category listed under section 112(c) of the CAA. The statute requires the regulations to reflect the maximum degree of reductions in emissions of HAP that is achievable taking into consideration the cost of achieving emissions reductions, any nonair quality health and environmental impacts, and energy requirements. This level of control is commonly referred to as MACT. The MACT based regulation can be based on the emissions reductions achievable through application of measures, processes, methods, systems, or techniques

including, but not limited to: (1) Reducing the volume of, or eliminating emissions of, such pollutants through process changes, substitutions of materials, or other modifications; (2) enclosing systems or processes to eliminate emissions; (3) collecting, capturing, or treating such pollutants when released from a process, stack, storage or fugitive emission point; (4) design, equipment, work practices, or operational standards as provided in subsection 112(h) of the CAA; or (5) a combination of the above.

For new sources, MACT based standards cannot be less stringent than the emission control achieved in practice by the best-controlled similar source. The MACT based standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources for categories and subcategories with 30 or more sources, or the best performing 5 sources for categories or subcategories with fewer than 30 sources.

In essence, these MACT based standards would ensure that all major sources of toxic air emissions achieve the level of control already being achieved by the better-controlled and lower-emitting sources in each category. This approach provides assurance to citizens that each major source of toxic air pollution will be required to effectively control its emissions. A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more a year. At the same time, this approach provides a level economic playing field, ensuring that facilities that employ cleaner processes and good emission controls are not disadvantaged relative to competitors with poorer controls.

B. What Is the Regulatory Development Background of the Source Categories in the Proposed Rule?

In September 1996, EPA chartered the Industrial Combustion Coordinated Rulemaking (ICCR) advisory committee under the Federal Advisory Committee Act (FACA). The committee's objective was to develop recommendations for regulations for several combustion source categories under sections 112 and 129 of the CAA. The ICCR advisory committee, known as the Coordinating Committee, formed Source Work Groups for the various combustion types covered under the ICCR. One of the work groups was formed to research issues related to boilers; another was formed to research issues related to process heaters. The Boiler and Process Heater Work Groups submitted recommendations, information, and data analysis results to the Coordinating Committee, which in turn considered them and submitted recommendations and information to EPA. The Committee's recommendations were considered by EPA in developing the proposed rule for boilers and process heaters. The Committee's 2-year charter expired in September 1998.

Following the expiration of the ICCR FACA charter, EPA decided to combine boilers with units in the process heater source category covering indirect-fired units, and to regulate both under the proposed NESHAP. This was done because indirect-fired process heaters and boilers are similar devices, burn similar fuel, have similar emission characteristics, and emissions from each can be controlled using similar control devices or techniques.

C. What Is the Statutory Authority for the Proposed Rule?

Section 112 of the CAA requires that EPA promulgate regulations requiring the control of HAP emissions from major sources and certain area sources. The control of HAP is achieved through promulgation of emission standards under sections 112(d) and (f) of the CAA and, in appropriate circumstances, work practice standards under section 112(h) of the CAA.

An initial list of categories of major and area sources of HAP selected for regulation in accordance with section 112(c) of the CAA was published in the **Federal Register** on July 16, 1992 (57 FR 31576). Industrial boilers, commercial and institutional boilers, and process heaters are three of the listed 174 categories of sources. The listing was based on the Administrator's determination that they may reasonably be anticipated to emit several of the 188 listed HAP in quantities sufficient to designate them as major sources.

D. What Is the Relationship Between the Proposed Rule and Other Combustion Rules?

The proposed rule regulates source categories covering industrial boilers, institutional and commercial boilers, and process heaters. These source categories potentially include combustion units that are already regulated by other MACT standards. Therefore, we are excluding from today's proposed rule any units that are already or will be subject to regulation under another MACT standard.

The commercial and industrial solid waste incinerators (CISWI) standards (40 CFR 60, subparts CCCC and DDDD) regulate commercial and industrial nonhazardous solid waste incinerators. Sources subject to the CISWI rules are exempt from the requirements of the proposed rule.

The utility HAP study Report to Congress provides information used to determine whether fossil fuel-fired utility boilers should be regulated in a future MACT standard. A fossil fuel-fired utility boiler is a fossil fuel-fired combustion unit with a heat input greater than 25 megawatts that serves a generator producing electricity for sale. Fossil fuel-fired utility boilers are exempt from the proposed rule. Nonfossil fuel-fired utility boilers are covered by the proposed rule.

The EPA's Office of Solid Waste is in the process of developing MACT based standards for hazardous waste boilers. Boilers burning hazardous waste are not included in the proposed rule.

In 1986, EPA had codified new source performance standards (NSPS) for industrial boilers (40 CFR part 60, subparts Db and Dc) and revised portions of them in 1999. The NSPS regulates emissions of particulate matter (PM), sulfur dioxide, and nitrogen oxides from boilers constructed after June 19, 1984. Sources subject to the NSPS are still subject to the proposed rule because the proposed rule regulates sources of hazardous air pollutants while the NSPS does not. However, in developing the proposed rule for industrial/commercial/institutional boilers and process heaters, EPA minimized the monitoring requirements, testing requirements, and recordkeeping requirements to avoid duplicating requirements.

Because of the broad applicability of the proposed rule due to the definition of a process heater, certain process heaters could appear to fit the applicability of another existing MACT rule. We have, therefore, included in the list of combustion units exempt from the proposed rule refining kettles subject to the secondary lead MACT rule (40 CFR 63, subpart X). This is one combustion unit meeting the definition of a process heater, that we are specifically aware of, that is covered by another MACT standard. Therefore, we are requesting comments on other process heaters that are already or will be subject to regulation under another MACT standard.

E. What Are the Health Effects of Pollutants Emitted From Industrial/Commercial/Institutional Boilers and Process Heaters?

Today's proposed rule protects air quality and promotes the public health by reducing emissions of some of the HAP listed in section 112(b)(1) of the CAA. As noted above, emissions data collected during development of the proposed rule show that hydrogen chloride emissions represent the predominant HAP emitted by industrial boilers, accounting for 59 percent of the total HAP emissions. Industrial boilers and process heaters also emit lesser amounts of hydrogen fluoride, accounting for about 5 percent of total HAP emissions, and metals (arsenic, cadmium, chromium, mercury, manganese, nickel, and lead), accounting for about 4 percent of total HAP emissions. Exposure to these HAP is associated with a variety of adverse health effects. These adverse health effects include chronic health disorders (*e.g.*, irritation of the lung, skin, and mucus membranes, effects on the central nervous system, and damage to the kidneys), and acute health disorders (*e.g.*, lung irritation and congestion, alimentary effects such as nausea and vomiting, and effects on the kidney and central nervous system). We have classified two of the HAP as human carcinogens and three as probable human carcinogens. We do not know the extent to which the adverse health effects described above occur in the populations surrounding these facilities. However, to the extent the adverse effects do occur, today's proposed rule would reduce emissions and subsequent exposures.

1. Arsenic

Acute (short-term) high-level inhalation exposure to arsenic dust or fumes has resulted in gastrointestinal effects (nausea, diarrhea, abdominal pain), and central and peripheral nervous system disorders. Chronic (long-term) inhalation exposure to inorganic arsenic in humans is associated with irritation of the skin and mucous membranes. Human data suggest a relationship between inhalation exposure of women working at or living near metal smelters and an increased risk of reproductive effects, such as spontaneous abortions. Inorganic arsenic exposure in humans by the inhalation route has been shown to be strongly associated with lung cancer, while ingestion of inorganic arsenic in humans has been linked to a form of skin cancer and also to bladder, liver, and lung cancer. The EPA has classified inorganic arsenic as a Group A, human carcinogen.

2. Cadmium

The acute (short-term) effects of cadmium inhalation in humans consist mainly of effects on the lung, such as pulmonary irritation. Chronic (long-term) inhalation or oral exposure to cadmium leads to a build-up of cadmium in the kidneys that can cause kidney disease. Cadmium has been shown to be a developmental toxicant in animals, resulting in fetal malformations and other effects, but no conclusive evidence exists in humans. An association between cadmium exposure and an increased risk of lung cancer has been reported from human studies, but these studies are inconclusive due to confounding factors. Animal studies have demonstrated an increase in lung cancer from long-term inhalation exposure to cadmium. The EPA has classified cadmium as a Group B1, probable carcinogen.

3. Chromium

Chromium may be emitted in two forms, trivalent chromium (chromium III) or hexavalent chromium (chromium VI). The respiratory tract is the major target organ for chromium VI toxicity, for acute (short-term) and chronic (long-term) inhalation exposures. Shortness of breath, coughing, and wheezing have been reported from acute exposure to chromium VI, while perforations and ulcerations of the septum, bronchitis, decreased pulmonary function, pneumonia, and other respiratory effects have been noted from chronic exposure. Limited human studies suggest that chromium VI inhalation exposure may be associated with complications during pregnancy and childbirth, while animal studies have not reported reproductive effects from inhalation exposure to chromium VI. Human and animal studies have clearly established that inhaled chromium VI is a carcinogen, resulting in an increased risk of lung cancer. The EPA has classified chromium VI as a Group A, human carcinogen.

Chromium III is less toxic than chromium VI. The respiratory tract is also the major target organ for chromium III toxicity, similar to chromium VI. Chromium III is an essential element in humans, with a daily intake of 50 to 200 micrograms per day recommended for an adult. The body can detoxify some amount of chromium VI to chromium III. The EPA has not classified chromium III with respect to carcinogenicity.

4. Hydrogen Chloride

Hydrogen chloride, also called hydrochloric acid, is corrosive to the eyes, skin, and mucous membranes. Acute (short-term) inhalation exposure may cause eye, nose, and respiratory tract irritation and inflammation and pulmonary edema in humans. Chronic (long-term) occupational exposure to hydrochloric acid has been reported to cause gastritis, bronchitis, and dermatitis in workers. Prolonged exposure to low concentrations may also cause dental discoloration and erosion. No information is available on the reproductive or developmental effects of hydrochloric acid in humans. In rats exposed to hydrochloric acid by inhalation, altered estrus cycles have been reported in females and increased fetal mortality and decreased fetal weight have been reported in offspring. The EPA has not classified hydrochloric acid for carcinogenicity.

5. Hydrogen Fluoride

Acute (short-term) inhalation exposure to gaseous hydrogen fluoride can cause severe respiratory damage in humans, including severe irritation and pulmonary edema. Chronic (long-term) exposure to fluoride at low levels has a beneficial effect of dental cavity prevention and may also be useful for the treatment of osteoporosis. Exposure to higher levels of fluoride may cause dental fluorosis. One study reported menstrual irregularities in women occupationally exposed to fluoride. The EPA has not classified hydrogen fluoride for carcinogenicity.

6. Lead

Lead is a very toxic element, causing a variety of effects at low dose levels. Brain damage, kidney damage, and gastrointestinal distress may occur from acute (short-term) exposure to high levels of lead in humans. Chronic (long-term) exposure to lead in humans results in effects on the blood, central nervous system (CNS), blood pressure, and kidneys. Children are particularly sensitive to the chronic effects of lead, with slowed cognitive development, reduced growth and other effects reported. Reproductive effects, such as decreased sperm count in men and spontaneous abortions in women, have been associated with lead exposure. The developing fetus is at particular risk from maternal lead exposure, with low birth weight and slowed postnatal neurobehavioral development noted. Human studies are inconclusive regarding lead exposure and cancer, while animal studies have reported an increase in kidney cancer from lead

exposure by the oral route. The EPA has classified lead as a Group B2, probable human carcinogen.

7. Manganese

Health effects in humans have been associated with both deficiencies and excess intakes of manganese. Chronic (long-term) exposure to low levels of manganese in the diet is considered to be nutritionally essential in humans, with a recommended daily allowance of 2 to 5 milligrams per day. Chronic exposure to high levels of manganese by inhalation in humans results primarily in CNS effects. Visual reaction time, hand steadiness, and eye-hand coordination were affected in chronically-exposed workers. Manganism, characterized by feelings of weakness and lethargy, tremors, a mask-like face, and psychological disturbances, may result from chronic exposure to higher levels. Impotence and loss of libido have been noted in male workers afflicted with manganism attributed to inhalation exposures. The EPA has classified manganese in Group D, not classifiable as to carcinogenicity in humans.

8. Mercury

Mercury exists in three forms: elemental mercury, inorganic mercury compounds (primarily mercuric chloride), and organic mercury compounds (primarily methyl mercury). Each form exhibits different health effects. Various major sources may release elemental or inorganic mercury; environmental methyl mercury is typically formed by biological processes after mercury has precipitated from the air.

Acute (short-term) exposure to high levels of elemental mercury in humans results in CNS effects such as tremors, mood changes, and slowed sensory and motor nerve function. High inhalation exposures can also cause kidney damage and effects on the gastrointestinal tract and respiratory system. Chronic (long-term) exposure to elemental mercury in humans also affects the CNS, with effects such as increased excitability, irritability, excessive shyness, and tremors. The EPA has not classified elemental mercury with respect to cancer.

Acute exposure to inorganic mercury by the oral route may result in effects such as nausea, vomiting, and severe abdominal pain. The major effect from chronic exposure to inorganic mercury is kidney damage. Reproductive and developmental animal studies have reported effects such as alterations in testicular tissue, increased embryo resorption rates, and abnormalities of development. Mercuric chloride (an inorganic mercury compound) exposure has been shown to result in forestomach, thyroid, and renal tumors in experimental animals. The EPA has classified mercuric chloride as a Group C, possible human carcinogen.

9. Nickel

Nickel is an essential element in some animal species, and it has been suggested it may be essential for human nutrition. Nickel dermatitis, consisting of itching of the fingers, hand and forearms, is the most common effect in humans from chronic (long-term) skin contact with nickel.

Respiratory effects have also been reported in humans from inhalation exposure to nickel. No information is available regarding the reproductive or developmental effects of nickel in humans, but animal studies have reported such effects. Human and animal studies have reported an increased risk of lung and nasal cancers from exposure to nickel refinery dusts and nickel subsulfide. Animal studies of soluble nickel compounds (*i.e.*, nickel carbonyl) have reported lung tumors. The EPA has classified nickel refinery subsulfide as Group A, human carcinogens and nickel carbonyl as a Group B2, probable human carcinogen.

II. Summary of the Proposed Rule

A. What Source Categories and Subcategories Are Affected by the Proposed Rule?

The proposed rule affects industrial boilers, institutional and commercial boilers, and process heaters. In the proposed rule process heaters are defined as units in which the combustion gases do not directly come into contact with process gases in the combustion chamber (*e.g.*, indirect fired). Boiler means an enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water. Combustion units are not subject to the proposed rule simply by virtue of having a waste heat boiler. A waste heat boiler (or heat recovery steam generator) is a device that recovers normally unused energy and converts it to usable heat. Emissions from a combustion unit with a waste heat boiler are regulated by the applicable standards for the particular type of combustion unit. For example, emissions from a commercial or industrial solid waste incineration unit, or other incineration unit with a waste heat boiler are regulated by standards established under section 129 of the CAA.

Hot water heaters also are not regulated under today's proposed rule. A hot water heater is a closed vessel in which water is heated by combustion of gaseous fuel and is withdrawn for use external to the vessel at pressures not exceeding 160 pounds per square inch gauge and water temperatures not exceeding 210 degree Fahrenheit.

B. What Pollutants Are Emitted?

Boilers and process heaters emit PM, volatile organic compounds, and hazardous air pollutants, depending on the material burned. Solid and liquid fuel-fired units emit metals, halogenated compounds and organic compounds. Gas fuel-fired units emit mostly organic compounds.

C. What Is the Affected Source?

The affected source is each individual industrial, commercial, or institutional boiler or process heater located at a major facility. The affected source does not include units that are municipal waste combustors (40 CFR part 60, subparts AAAA, BBBB, Eb or Cb), medical waste incinerators (40 CFR part 60, subpart Ce and Ec), fossil fuel-fired electric utility steam generating units, commercial and industrial solid waste incineration units (40 CFR part 60, subparts CCCC or DDDD), recovery boilers or furnaces (40 CFR part 63, subpart MM), ethylene cracking furnaces (40 CRF part 63, subpart YY), or hazardous waste combustion units required to have a permit under section 3005 of the Solid Waste Disposal Act or are subject to 40 CFR part 63, subpart EEE.

D. Does the Proposed Rule Apply to Me?

The proposed rule applies to you if you own or operate a boiler or process heater at a major source meeting the requirements discussed previously in this preamble. A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 10 tons or more per year or any combination of HAP at a rate of 25 tons or more a year.

E. What Emission Limitations and Work Practice Standards Must I Meet?

You must meet the emission limits and work practice standards for the subcategories in Table 1 of this preamble for each of the pollutants listed. Emission limits and work practice standards were developed for new and existing sources; and for large, small, and limited use solid, liquid, and gas fuel-fired units. Large units are those

watertube boilers and process heaters with heat input capacities greater than 10 million British thermal units per hour (MMBtu/hr). Small units are any firetube boilers or any boiler and process heater with heat input capacities less than or equal to 10 MMBtu/hr. Limited use units are those large units with capacity utilizations less than or equal to 10 percent as required in a federally enforceable permit.

If your new or existing boiler or process heater is permitted to burn a solid fuel (either as a primary fuel or a backup fuel), or any combination of solid fuel with liquid or gaseous fuel, the unit is in one of the solid subcategories. If your new or existing boiler or process heater burns a liquid fuel, or a liquid fuel in combination with a gaseous fuel, the unit is in one of the liquid subcategories. If your new or existing boiler or process heater burns a gaseous fuel only, the unit is in the gas subcategory.

TABLE 1.—EMISSION LIMITS AND WORK PRACTICE STANDARDS FOR BOILERS AND PROCESS HEATERS

[Pounds per million British thermal units]

Source	Subcategory	Particulate matter (PM)	or	Total selected metals	Hydrogen chloride (HCl)	Mercury (Hg)	Carbon Monoxide (CO)(ppm@3%oxygen)
New Boiler, or Process Heater.	Solid Fuel, Large Unit	0.026	or	0.0001	0.02	0.000003	400
	Solid Fuel, Small Unit	0.026	or	0.0001	0.02	0.000003	.....
	Solid Fuel, Limited Use.	0.026	or	0.0001	0.02	0.000003	400
	Liquid Fuel, Large Unit.	0.03	.....	.....	0.0005	.....	400
	Liquid Fuel, Small Unit	0.03	.....	0.0009	.....	.....	
	Liquid Fuel, Limited Use.	0.03	.....	.....	0.0009	.....	400
	Gaseous Fuel Large Unit.	.....	.....	.....	.....	.....	400
	Gaseous Fuel Small Unit.	.....	.....	.....	.....		
	Gaseous Fuel Limited Use.	.....	.....	.....	.....	.....	400
Existing Boiler or Process Heater.	Solid Fuel, Large Unit	0.07	or	0.001	0.09	0.000007	.....
	Solid Fuel, Small Unit	.....	.....	.....	.....	.....	.....
	Solid Fuel, Limited Used.	0.2	or	0.001	.....	.....	.....
	Liquid Fuel, Large Unit.	.....	.....	.....	.....	.....	.....
	Liquid Fuel, Small Unit	.....	.....	.....	.....	.....	.....
	Liquid Fuel, Limited Use.	.....	.....	.....	.....	.....	.....
	Gaseous Fuel	.....	.....	.....	.....	.....	.....

For solid fuel-fired boilers or process heaters, we are proposing to allow sources to choose one of two emission limit options: (1) Existing and new affected sources may choose to limit PM emissions to the level listed in Table 1 of this preamble or (2) existing and new affected sources may choose to limit total selected metals emissions to the level listed in Table 1 of this preamble.

If you do not use an add-on control or use an add-on control other than a wet scrubber, you must maintain opacity level to less than or equal to the level established during the compliance test for mercury and PM or total selected metals, and maintain the fuel chlorine content to less than or equal to the operating level established during the HCl compliance test.

If you use a wet scrubber, you must maintain the minimum pH, pressure drop and liquid flow-rate above the operating levels established during the performance tests.

If you use a dry scrubber, you must maintain opacity level and the minimum sorbent injection rate established during the performance test.

If you use an electrostatic precipitator (ESP) in combination with a wet scrubber and cannot monitor the opacity, you must maintain the average secondary current and voltage or total power input established during the performance test.

There is an alternative compliance procedure and operating limit for meeting the total selected metals emission limit option or the mercury emission limit option. If you have no control or do not want to take credit of metals reductions with your existing control device, and can show that total metals in the fuel would be less than the metals emission level, then you can monitor the metals fuel analysis to meet the metals emissions limitations. Similarly, if you do not have an emission control device or you otherwise would rather comply by limiting the mercury input at your facility, and can show that mercury in the fuel would be less than the mercury emission level, then you can monitor the mercury fuel analysis to meet the mercury emission limitations.

If your unit is a new source in the large or limited use subcategories, it must meet a carbon monoxide (CO) emission limit of 400 parts per million corrected to 3 percent oxygen. If your new or existing source is controlled with a fabric filter, then you must install a bag leak detection system such that the bag detection system alarm does not sound more than 5 percent of the operating time during a 6-month period.

F. What Are the Testing and Initial Compliance Requirements?

As the owner or operator of a new or existing boiler or process heater, you must conduct performance tests to demonstrate compliance with any applicable emission limits. The applicable emission limits and,

therefore, the required performance tests are different depending on the subcategory classification of the unit. Existing units in the small solid fuel subcategory and in any of the liquid or gaseous fuel subcategories do not have applicable emission limits and, therefore, are not required to conduct stack tests. Other units are required to conduct the following compliance tests where applicable:

(1) Conduct initial and annual stack tests to determine compliance with the PM emission limits using EPA Method 5 or Method 17 in appendix A to part 60 of this chapter.

(2) Affected sources in the solid fuel subcategories may choose to comply with an alternative total selected metals emission limit instead of PM. Sources would then conduct initial and annual stack tests to determine compliance with the total selected metals emission limit using EPA Method 29 in appendix A to part 60 of this chapter.

(3) Conduct initial and annual stack tests to determine compliance with the mercury emission limits using EPA method 29 in appendix A to part 60 of this chapter (for boilers with rated heat input capacities of less than 250 MMBtu per hour) or the draft ASTM Z65907, ''Standard Method for Both Speciated and Elemental Mercury Determination,'' (for boilers with rated heat input capacities of greater than 250 MMBtu per hour).

(4) Conduct initial and annual stack tests to determine compliance with the HCl emission limits using EPA Method 26 in appendix A to part 60 of this chapter (for boilers without wet scrubbers) or EPA Method 26A in appendix A to part 60 of this chapter (for boilers with wet scrubbers).

(5) Use EPA Method 19 in appendix A to part 60 of this chapter to convert measured concentration values to pound per million British thermal units (Btu) values.

(6) For new units in any of the liquid fuel subcategories that do not burn residual oil, instead of conducting an initial compliance test you may submit a signed statement in the Notification of Compliance Status report that indicates that you only burn liquid fossil fuels other than residual oil.

As part of the initial compliance demonstration, you must monitor specified operating parameters during the initial performance tests that demonstrate compliance with the PM (or metals), mercury, and HCl emission limits. You must calculate the average parameter values measured during each 1-hour test run over the 3-hour performance test. The minimum or maximum of the three average values (depending on the parameter measured) for each applicable parameter is established as a site-specific operating limit. The applicable operating parameters for which operating limits must be established are based on the emissions limits applicable to your unit as well as the types of add-on controls on the unit. A summary of the operating limits that must be established for the various types of the following units:

(1) For boilers and process heaters without wet scrubbers that must comply with the mercury emission limit and either a PM emission limit or a total selected metals emission limit, you must measure opacity during the performance test and calculate the 6-minute averages. The maximum 1-hour average measured establishes your site-specific opacity operating limit. Or, if the unit is controlled with a fabric filter, instead of setting an opacity operating limit, the fabric filter must be operated such that the required bag leak detection system alarm does not sound more than 5 percent of the operating time during any 6-month period.

(2) For boilers and process heaters without wet or dry scrubbers that must comply with an HCl emission limit, you must measure the average chlorine content level in the input fuel(s) during the HCl performance test. This is your maximum chlorine input operating limit. If you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supplier than what was burned during the initial performance test, then you must recalculate the maximum chlorine input anticipated from the new fuels based on supplier data or own fuel analysis. If the results of recalculating the chlorine input exceeds the average chlorine content level established during the initial test then you must conduct a new performance test to demonstrate compliance with the HCl emission limit.

(3) For boilers and process heaters with wet scrubbers that must comply with a mercury, PM and/or an HCl emission limit, you must measure pressure drop and liquid flow-rate of the scrubber during the performance test, and calculate the average value for each test run. The minimum test run average establishes your site-specific pressure drop and liquid flow-rate operating levels. If different average parameter levels are measured during the mercury, PM (or metals) and HCl tests, the highest of the average values becomes your site-specific operating limit. If you are complying with an HCl emission limit, you must measure pH during the performance test for HCl and determine the average for each test run and the minimum value for the performance test. This establishes your minimum pH operating limit.

(4) For boilers and process heaters with dry scrubbers that must comply with a PM or mercury emission limit, you must measure opacity during the PM performance test as described above. If you must also comply with an HCl emission limit, you must measure the sorbent injection rate during the performance test for HCl, and calculate the average for each test run. The minimum test run average established during the performance test is your site-specific minimum sorbent injection rate operating limit.

(5) For boilers and process heaters with fabric filters in combination with wet scrubbers that must comply with a mercury emission limit, PM emission limit and/or an HCl emission limit, you must measure the pH, pressure drop, and liquid flow-rate of the wet scrubber during the performance test and calculate the average value for each test run. The minimum test run average establishes your site-specific pH, pressure drop, and liquid flow-rate operating limits for the wet scrubber. Furthermore, the fabric filter must be operated such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during any 6-month period.

(6) For boilers and process heaters with ESP in combination with wet scrubbers that must comply with a mercury, PM and/or an HCl emission limit, you must measure the pH, pressure drop, and liquid flow-rate of the wet scrubber during the HCl performance test and you must measure the voltage and current of the ESP collection plates during the mercury and PM (or metals) performance test. Calculate the average value of these parameters for each test run. The minimum test run averages establish your site-specific minimum pH, pressure drop, and liquid flow-rate operating limit for the wet scrubber and the minimum voltage and current operating limits for the ESP plates.

(7) For boilers that choose to comply with the alternative total selected metals emission limit instead of PM and have either no add-on controls or add-on controls for which you do not want to take credit for any emission reduction of metals, you must measure the total selected metals content of the inlet fuel that was burned during the total selected metals performance test. This value is your maximum fuel inlet metals content operating limit. If you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supplier than what was burned during the initial performance test, then you must

recalculate the maximum metals input anticipated from the new fuels based on supplier data or own fuel analysis. If the results of recalculating the metals input exceeds the average metals content level established during the initial test then you must conduct a new performance test to demonstrate compliance with the alternate total selected metals emission limit.

(8) For boilers that choose to demonstrate compliance with the mercury emission limit on the basis of fuel analysis and have no add-on controls or add-on controls for which you do not want to take credit for any emission reduction of mercury, you must measure the mercury content of the inlet fuel that was burned during the mercury performance test. This value is your maximum fuel inlet mercury operating limit. If you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supplier than what was burned during the initial performance test, then you must recalculate the maximum mercury input anticipated from the new fuels based on supplier data or own fuel analysis. If the results of recalculating the mercury input exceeds the average mercury content level established during the initial test then you must conduct a new performance test to demonstrate compliance with the mercury emission limit.

(9) For new boilers and process heaters in any of the large or limited use subcategories, you must monitor CO during the performance tests for PM (or metals) and/or HCl to demonstrate that average CO emissions are at or below an exhaust concentration of 400 parts per million (ppm) by volume on a dry basis corrected to 3 percent oxygen.

G. What Are the Continuous Compliance Requirements?

To demonstrate continuous compliance with the emission limitations, you must monitor and comply with the applicable site-specific operating limits established during the following performance tests:

(1) For boilers and process heaters without wet scrubbers that must comply with a mercury emission limit and either a PM emission limit or a total selected metals emission limit, you must continuously monitor opacity and maintain the 3-hour block average at or below your site-specific opacity operating limit. Or, if the unit is controlled with a fabric filter, instead of continuous monitoring opacity, the fabric filter must be continuously operated such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during any 6-month period.

(2) For boilers and process heaters without wet or dry scrubbers that must comply with an HCl emission limit, you must maintain daily records of fuel use that demonstrate that you have burned no new fuels such that you have maintained the fuel chlorine content level at or below your site-specific maximum chlorine input operating limit. If you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supplier than what was burned during the initial performance test, then you must recalculate the maximum chlorine input anticipated from the new fuels based on supplier data or own fuel analysis. If the results of recalculating the chlorine input exceeds the average chlorine content level established during the initial test then you must conduct a new performance test to demonstrate continuous compliance with the HCl emission limit.

(3) For boilers and process heaters with wet scrubbers that must comply with a mercury, PM and/or an HCl emission limit, you must monitor pressure drop and liquid flow-rate of the scrubber and maintain the 3-hour block averages at or above the operating limits established during the performance test. You must monitor the pH of the scrubber and maintain the 3-hour block average at or above the operating limit established during the performance test to demonstrate continuous compliance with the HCl emission limits.

(4) For boilers and process heaters with dry scrubbers that must comply with a PM or mercury emission limit, you must monitor and maintain opacity levels as described above to demonstrate continuous compliance with the PM emission limits. If you must also comply with an HCl emission limit, you must continuously monitor the sorbent injection rate and maintain it at or above the operating limits established during the HCl performance test.

(5) For boilers and process heaters with fabric filters in combination with wet scrubbers, you must monitor the pH, pressure drop, and liquid flow-rate of the wet scrubber and maintain the levels at or above the operating limits established during the HCl performance test. You must also maintain the operation of the fabric filter such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during any 6-month period.

(6) For boilers and process heaters with ESP in combination with wet scrubbers that must comply with a mercury, PM and/or an HCl emission limit, you must monitor the pH, pressure drop, and liquid flow-rate of the wet scrubber and maintain the 3-hour block averages at or above the operating limits established during the HCl performance test and you must monitor the voltage and current of the ESP collection plates and maintain the 3-hour block averages at or above the operating limits established during the mercury or PM (or metals) performance test.

(7) For boilers that choose to comply with the alternative total selected metals limit instead of PM emission limit based on fuel analysis rather than on performance testing, you must maintain daily fuel records that demonstrate that you burned no new fuels or fuels from a new supplier such that the total selected metals content of the inlet fuel was maintained at or below your maximum fuel inlet metals content operating limit set during the metals performance test. If you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supplier than what was burned during the initial performance test, then you must recalculate the maximum metals input anticipated from the new fuels based on supplier data or own fuel analysis. If the results of recalculating the metals input exceeds the average metals content level established during the initial test then you must conduct a new performance test to demonstrate continuous compliance with the alternate selected metals emission limit.

(8) For boilers that choose to comply with the mercury emission limit based on fuel analysis rather than on performance testing, you must maintain daily fuel records that demonstrate that you burned no new fuels or fuels from a new supplier such that the total selected mercury content of the inlet fuel was maintained at or below your maximum fuel inlet metals content operating limit set during the mercury performance test. If you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supplier than what was burned during the initial performance test, then you must recalculate the maximum mercury input anticipated from the new fuels based on supplier data or own fuel analysis. If the results of recalculating the mercury input exceeds the average mercury content level established during the initial test then you must conduct a new performance test to demonstrate continuous compliance with the mercury emission limit.

(9) For new boilers and process heaters in any of the large or limited use subcategories, you must continuously monitor CO and maintain the average CO emissions at or below 400 ppm by

volume on a dry basis corrected to 3 percent oxygen to demonstrate compliance with the work practice standards. Upon detecting an excursion or exceedance, you must restore operation of the unit to its normal or usual manner of operation as expeditiously as practicable in accordance with good air pollution control practices for minimizing emissions. The response shall include minimizing the period of any startup, shutdown or malfunction and taking any necessary corrective actions to restore normal operation and prevent the likely recurrence of the cause of an excursion or exceedance. Such actions may include initial inspections and evaluation, recording that operations returned to normal without operator action, or any necessary follow-up actions to return operation to below the work practice standard.

If a control device other than the ones specified in this section is used to comply with the proposed rule, you must establish site-specific operating limits and establish appropriate continuous monitoring requirements, as approved by the Administrator.

H. What Are the Notification, Recordkeeping and Reporting Requirements?

You must keep the following records:

(1) All reports and notifications submitted to comply with the proposed rule.

(2) Continuous monitoring data as required in the proposed rule.

(3) Each instance in which you did not meet each emission limit and each operating limit, including periods of startup, shutdown, and malfunction (*i.e.*, deviations from the proposed rule).

(4) Daily hours of operation by each source.

(5) Total fuel use by each affected source electing to comply with an emission limit based on fuel analysis for each 30-day period along with a description of the fuel, the total fuel usage amounts and units of measure, and information on the supplier and original source of the fuel.

(6) Calculations and supporting information of chlorine fuel input, as required in the proposed rule.

(7) Calculations and supporting information of total selected metals and mercury fuel input, as required in the proposed rule, if applicable.

(8) A signed statement, as required in the proposed rule, indicating you burned no new fuels, no fuels from a new supplier, or no new fuel mixture or the recalculation of chlorine input to demonstrate that the new fuel, new mixture, new source still meets chlorine fuel input levels.

(9) A signed statement, as required in the proposed rule, indicating you burned no new fuels, no fuels from a new supplier, or no new fuel mixture or the recalculation of total selected metals fuel input to demonstrate that the new fuel, new fuel mixture, or fuel from a new source still meets the total selected metals fuel input levels.

(10) A signed statement, as required in the proposed rule, indicating you burned no new fuels, no fuels from a new supplier, or no new fuel mixture or the recalculation of mercury fuel input to demonstrate that the new fuel, new fuel mixture, or fuel from a new source still meets the mercury fuel input levels.

(11) A copy of the results of all performance tests, fuel analysis, opacity observations, performance evaluations, or other compliance demonstrations conducted to demonstrate initial or continuous compliance with the proposed rule.

(12) A copy of any Federally enforceable permit that limits the annual capacity factor of the source to less than or equal to 10 percent.

(13) A copy of your site-specific startup, shutdown, and malfunction plan.

(14) A copy of your site-specific monitoring plan developed for the proposed rule, if applicable.

You must submit the following reports and notifications:

(1) Notifications required by the General Provisions.

(2) Initial Notification no later than 120 calendar days after you become subject to this subpart.

(3) Notification of Intent to conduct performance tests and/or compliance demonstration at least 60 calendar days before the performance test and/or compliance demonstration is scheduled.

(4) Notification of Compliance Status 60 calendar days following completion of the performance test and/or compliance demonstration.

(5) Compliance reports semi-annually.

III. Rationale of the Proposed Rule

A. How Did EPA Determine Which Pollution Sources Would Be Regulated Under the Proposed Rule?

The proposed rule regulates source categories covering industrial boilers, institutional and commercial boilers, and process heaters. These source categories potentially include combustion units that are already regulated by other MACT standards. Therefore, we are excluding from today's proposed rule any units that are already or will be subject to regulation under another MACT standard. A list of combustion units excluded from the proposed rule is discussed previously in this preamble. The CAA specifically requires that fossil fuel-fired steam generating units of more than 25 megawatts that produce electricity for sale (*i.e.*, utility boilers) be reviewed separately by EPA. Consequently, the proposed rule does not regulate fossil fuel-fired utility boilers greater than 25 megawatts, but does regulate fossil fuel-fired units less than 25 megawatts and all nonfossil fuel-fired utility boilers. The proposed rule also does not regulate emissions from combustion units with waste heat boilers, unless such units would otherwise be subject to the emission limitations in today's proposed rule. For example, emissions from any commercial or industrial solid waste incinerator (CISWI) or other incinerator unit that has a waste heat boiler will be covered by regulations promulgated under section 129 of the CAA.

During the ICCR FACA, the scope of the process heater source category was limited to regulate only indirect-fired units. Direct-fired units are covered in other MACT standards or rulemakings pertaining to industrial process operations. For example, lime kilns are covered by the Pulp and Paper NESHAP (40 CFR part 63, subpart S). Indirect-fired process heaters are similar to boilers in fuel use, emissions, and applicable controls, and, therefore, it is appropriate for EPA to combine this category of units with industrial, commercial and institutional boilers for purposes of developing emission standards.

Also during the ICCR FACA process, EPA received comments from stakeholders regarding the potential for the proposed rule to regulate small hot water heaters located at major source facilities. Many industrial facilities have office buildings located onsite which use hot water heaters. Such hot water heaters, by their design and operation, could be considered boilers. However, since hot water heaters generally are small and use natural gas as fuel, their emissions are negligible compared to the emissions from the industrial operations that make such facilities major sources, and compared to boilers that are used for industrial, commercial, or institutional purposes. Moreover, such hot water heaters are more appropriately described as residential-type boilers, not industrial, commercial or institutional boilers. Consequently, we are including a definition of hot water heaters that includes fuel, size, pressure and temperature limitations that we believe are appropriate to

distinguish between residential-type units and industrial, commercial or institutional units. Therefore, the proposed rule regulates industrial, commercial, and institutional boilers and process heaters located at major source facilities but excludes residential-type hot water heaters.

The Clean Air Act allows EPA to divide source categories into subcategories when differences between given types of units lead to corresponding differences in the nature of emissions and the technical feasibility of applying emission control techniques. The design, operating, and emissions information that EPA has reviewed indicates the need to subcategorize boilers and process heaters based on the physical state of the fuel burned, *i.e.*, solid, liquid, or gas. Data indicate that there are significant design and operational differences between units that burn solid, liquid and gaseous fuels.

Boiler systems are designed for specific fuel types and will encounter problems if a fuel with characteristics other than those originally specified is fired. While many boilers in the population database are indicated to co-fire liquids or gases with solid fuels, in actuality most of these commonly use fuel oil or natural gas as a startup fuel only. Other co-fired units are specifically designed to fire combinations of solids, liquids, and gases. Changes to the fuel type (solid, liquid, or gas) would require extensive changes to the fuel handling and feeding system (*e.g.*, a stoker using wood as fuel would need to be redesigned to handle fuel oil or gaseous fuel). Additionally, the burners and combustion chamber would need to be redesigned and modified to handle different fuel types and account for increases or decreases in the fuel volume and shape. In some cases, the changes may reduce the capacity and efficiency of the boiler or process heater. An additional effect of these changes would be extensive retrofit costs.

Emissions from boilers and process heaters burning solids, liquids, and gaseous fuels will also differ. Boilers and process heaters emit a number of different types of HAP emissions. In general, their formation is dependent upon the composition of the fuel. The combustion quality and temperature may also play an important role. The fuel dependent HAP emissions from boilers and process heaters are metals, including mercury, and acid gases. These fuel dependent HAP emissions generally can be controlled by either changing the fuel property before combustion or by removing the HAP from the flue gas after combustion. Organic HAP, on the other hand, are formed from incomplete combustion and are much less influenced by the characteristics of the fuel being burned. The degree of combustion may be greatly influenced by three general factors: time, turbulence, and temperature. These factors are a function of the design of the boiler or process heater which is dependent in part on the type of fuel being burned.

Solid fuel-fired units will emit larger amounts of PM and metals depending on the solid fuel burned. Liquid and gaseous fuel-fired units generally emit larger amounts of organic HAP. Because these different types of units have different emission characteristics which may influence the feasibility of effectiveness of emission control, they should be regulated separately (*i.e.*, subcategorized). Thus, these categories appropriately identify distinctly different types of units subject to regulation.

Accordingly, EPA decided to subcategorize boilers and process heaters into solid, liquid and gaseous fuel subcategories in order to account for these differences in emissions and applicable controls. The solid fuel subcategory includes boilers and process heaters burning any amount of solid fuel (including units burning a combination of solid fuel and liquid or gaseous fuel). The gaseous fuel subcategory includes units only burning gaseous fuel. The liquid fuel subcategory includes all remaining boilers and process heaters.

Small boilers and process heaters were also identified as a subcategory. These small units typically are package units having capacities less than 10 MMBtu/hr heat input or use a combustor design (*i.e.*, firetube or cast iron) which is not common in large units. Large boilers generally are field-erected using the watertube combustor design with capacities above 10 MMBtu/hr. As discussed above, the design of the boiler or process heater will influence the completeness of the combustion process which will influence the formation of organic HAP emissions. The vast majority of these small units use natural gas as fuel. Additionally, most existing State and Federal regulations for boilers and process heaters do not regulate units with a heat input capacity of less than 10 MMBtu/hr, due to their low emissions. Consequently, we decided to further subcategorize boilers and process heaters within each fuel category by creating subcategories for large units (watertube boilers and process heaters greater than 10 MMBtu/hr capacity) and small units (all firetube boilers and boilers and process heaters of any other type with less than or equal to 10 MMBtu/hr capacity).

A review of the information gathered on boilers also shows that a number of units operate as backup, emergency, or peaking units that operate infrequently. Back-up or emergency units only operate if another boiler that is the regular source of energy or steam is not operating (for example due to a shutdown for maintenance and repair). Peaking units operate only during peak energy use periods, typically in the summer months. The boiler database indicates that these infrequently operated units typically operate 10 percent of the year or less. These limited use boilers, when called upon to operate, must respond without failure and without lengthy periods of startup. While these are potential sources of emissions, and it is appropriate for EPA to address them in the proposal, the Agency believes that their use and operation are different compared to typical industrial, commercial, and institutional boilers. Consequently, we decided that such limited use units should have their own subcategory. Therefore, the proposed rule has subcategories for boilers and process heaters having a capacity utilization of less than 10 percent.

In summary, we have identified nine subcategories of boilers and process heaters located at major sources: (1) Large solid fuel-fired boilers and process heaters (sizes greater than 10 MMBtu/hr), (2) large liquid fuel-fired boilers and process heaters (sizes greater than 10 MMBtu/hr), (3) large gaseous fuel-fired boilers and process heaters (sizes greater than 10 MMBtu/hr), (4) small solid fuel-fired boilers and process heaters (firetubes or any unit less than or equal to 10 MMBtu/hr), (5) small liquid fuel-fired boilers and process heaters (sizes less than or equal to 10 MMBtu/hr), (6) small gaseous fuel-fired boilers and process heaters (sizes less than or equal to 10 MMBtu/hr), (7) limited use solid fuel-fired boilers and process heaters (large units with capacity utilization less than or equal to 10 percent), (8) limited use liquid fuel-fired boilers and process heaters (large units with capacity utilization less than or equal to 10 percent), and (9) limited use gaseous fuel-fired boilers and process heaters (large units with capacity utilization less than or equal to 10 percent).

B. How Did EPA Select the Format for the Proposed Rule?

The proposed rule includes emission limits for PM, selected metallic HAP,

mercury, and HCl for six of the nine subcategories. The selection of emission limitations as the format for the proposed rule provides flexibility for the regulated community by allowing a regulated source to choose any control technology or technique to meet the emission limits, rather than requiring each unit to use a prescribed method that may not be appropriate in each case. This is particularly relevant for boilers and process heaters, because they can burn many different types of fuels with greatly varying emission profiles and owners need flexibility to use the control devices that are best for their particular emission characteristics.

The EPA selected an outlet emission rate format because outlet data are available for boilers and process heaters that use the control techniques that provide the greatest reduction in HAP emissions. The individual limits reflect the achievable performance of boilers and process heaters using the appropriate controls for each type of emissions.

The EPA is proposing numerical emission rate limits as a mass of pollutant emitted per heat energy input to the boiler or process heater. The most typical units for the limits are pounds of pollutant emitted per million Btu of heat input. The mass per heat input units are consistent with other Federal and many State boiler regulations and allows easy comparison between such requirements. Additionally, the proposed rule contains an option to monitor inlet chlorine, mercury, and metals content in the fuel to meet outlet emission rate limits. This option can only be done on a mass basis.

The EPA considered percent reduction and outlet concentration as alternative formats for the pollutants regulated. However, an outlet concentration limit could not be accurately correlated to the chlorine content in the inlet fuel. An outlet concentration limit would also not be consistent with the format of other regulations. Affected units would already be complying with a mass per heat input limit, so EPA did not believe that a concentration limit would provide any additional benefits or flexibility. Additionally, data were insufficient to determine percent reductions that control devices achieve. Furthermore, a percent reduction requirement would limit the flexibility of the regulated community by requiring the use of a control device. Therefore, neither alternative was selected as the format for the proposed rule. The EPA requests comments on the appropriateness of percent reduction requirements and outlet concentration limit requirements, and any data upon which those requirements could be based.

Boilers and process heaters can emit a wide variety of compounds, depending on the fuel burned. The boiler emissions test database lists over 100 possible HAP. Because of the large number of HAP potentially present and the disparity in the quantity and quality of the emissions information available, EPA grouped the HAP into four common categories: mercury, non-mercury metallic HAP, inorganic HAP, and organic HAP. In general, the pollutants within each group have similar characteristics and can be controlled with the same techniques. For example, non-mercury metallic HAP can be controlled with PM controls. The EPA chose to look at mercury separately from other metallic HAP due to its different chemical characteristics and applicable controls.

Next, EPA identified compounds that could be used as surrogates for all the compounds in each pollutant category. For the non-mercury metallic HAP, EPA chose to use PM as a surrogate. Most, if not all, non-mercury metallic HAP emitted from combustion sources will appear on the flue gas fly-ash. Therefore, the same control techniques that would be used to control the fly-ash PM will control non-mercury metallic HAP. Particulate matter was also chosen instead of specific metallic HAP because all fuels do not emit the same type and amount of metallic HAP but most generally emit PM that includes some amount and combination of metallic HAP. The use of PM as a surrogate will also eliminate the cost of performance testing to comply with numerous standards for individual metals.

However, the Agency is sensitive to the fact that some sources that burn fuels containing very little metals, but would have sufficient PM emissions to require control under the PM provisions of the proposed rule. In such cases, PM would not be an appropriate surrogate for metallic HAP. Therefore, the Agency is also proposing an alternative metals emission limit. A source may choose to comply with the alternative metals emissions limit instead of the PM limit to meet the proposed rule. The metals emission limit is for the sum of emissions of eight selected metals: arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, and selenium. The eight represent the most common and the largest emitted metallic HAP from boilers and process heaters.

For inorganic HAP, EPA chose to use HCl as a surrogate. The emissions test information available to EPA indicate that the primary inorganic HAP emitted from boilers and process heaters are acid gases, with HCl present in the largest amounts. Other inorganic compounds emitted are found in much smaller quantities. Also, control technologies that would reduce HCl would also control other inorganic compounds that are acid gases. Thus, the best controls for HCl would also be the best controls for other inorganic HAP that are acid gases. Therefore, HCl is a good surrogate for inorganic HAP because controlling HCl will result in a corresponding control of other inorganic HAP emissions.

For organic HAP, EPA chose to use CO as a surrogate to represent the variety of organic compounds, including dioxins, emitted from the various fuels burned in boilers and process heaters. Because CO is a good indicator of incomplete combustion, there is a direct correlation between CO emissions and the formation of organic HAP emissions. Monitoring equipment for CO is readily available, which is not the case for organic HAP. Also, it is significantly easier and less expensive to measure and monitor CO emissions than to measure and monitor emissions of each individual organic HAP. Therefore, using CO as a surrogate for organic HAP is a reasonable approach because minimizing CO emissions will result in minimizing organic HAP emissions.

In addition to meeting emission limits, today's proposal would also require sources to establish control device operating parameter limits and continuously monitor control device operating parameters. Each source would establish site-specific values for the relevant parameters during performance tests, and use the parameter values to demonstrate compliance with the emission limits. We selected different operating parameters for each type of potential control device. The parameters were selected because they are good indicators of proper control device operation and performance, are consistent with other standards, and are feasible to monitor. The operating limits reasonably assure that the control devices continue to operate in a manner that will achieve the same level of control as during the performance test.

C. How Did EPA Determine the Proposed Emission Limitations for Existing Units?

All standards established pursuant to section 112(d)(2) of the CAA must reflect MACT, the maximum degree of reduction in emissions of air pollutants that the Administrator, taking into consideration the cost of achieving such

emissions reductions, and any nonair quality health and environmental impacts and energy requirements, determined is achievable for each category. For existing sources, MACT cannot be less stringent than the average emission limitation achieved by the best performing 12 percent of existing sources for categories and subcategories with 30 or more sources. This requirement constitutes the MACT floor for existing boilers and process heaters. However, EPA may not consider costs or other impacts in determining the MACT floor. The EPA must consider cost, nonair quality health and environmental impacts, and energy requirements in connection with any standards that are more stringent than the MACT floor (beyond-the-floor controls).

D. How Did EPA Determine the MACT Floor for Existing Units?

We considered several approaches to identifying MACT floor for existing industrial, commercial, and institutional boilers and process heaters. Based on recent court decisions, in most cases the most acceptable approach for determining the MACT floor is likely to involve primarily the consideration of available emissions test data. Using such an approach, EPA might calculate the MACT floor for a category of sources by ranking the emission test results from units within the category from lowest to highest, and then taking the numerical average of the test results from the best performing (lowest emitting) 12 percent of sources.

However, after review of the available HAP emission test data, we determined that it was inappropriate to use this MACT floor approach to establish emission limits for boilers and process heaters. The main problem with using only the HAP emissions data is that, based on the test data alone, uncontrolled units (or units with low efficiency add-on controls) were frequently identified as being among the best performing 12 percent of sources in a subcategory, while many units with high efficiency controls were not. However, these uncontrolled or poorly controlled units are not truly among the best controlled units in the category. Rather, the emissions from these units are relatively low because of particular characteristics of the fuel that they burn, that cannot reasonably be replicated by other units in the category or subcategory. In fact, we expect just this kind of variability in emission rates given the variety of fuel types included within each subcategory of boilers and process heaters.

A review of fuel analyses indicate that the concentration of HAP (metals, HCl, mercury) vary greatly, not only between fuel types, but also within each fuel type. Some fuels even have pollutant concentration levels below the detection limit of the applicable analytical test method. Therefore, a unit without any add-on controls, but burning a fuel containing lower amounts of HAP, can have emission levels that are lower than the emissions from a unit with the best available add-on controls. If only the available HAP emissions data are used, the resulting MACT floor levels would be unachievable for many existing units, even those that employ the most effective available emission control technology. For example, an uncontrolled boiler burning wood may have lower emissions of mercury than a well controlled boiler burning coal. In fact, coal burning boilers may never be able to achieve the mercury HAP level of the wood-fired unit, no matter what add-on controls are used. In this instance, establishing a MACT standard based on emission data alone would force the coal units to switch to different fuels to achieve the MACT limits. As discussed later in this section, fuel switching is not an appropriate or available control option for identifying the MACT floors for boilers and process heaters.

Another problem with using only emissions data is that there is no HAP emissions information available to the Agency for some of the subcategories. This is consistent with the fact that units in these source categories have not historically been required to test for HAP emissions.

We also considered using HAP emission limits contained in State regulations and permits as a surrogate for actual emission data in order to identify the emissions levels from the best performing units in the category for purposes of establishing MACT standards. However, we found no State regulations or State permits that specifically limit HAP emissions from these sources.

Consequently, we concluded that the most appropriate approach for determining MACT floors for boilers and process heaters was to look at the control options used by the units within each subcategory in order to identify the best performing units. Information was available regarding the emission control options employed by the population of boilers identified by the EPA. We considered several possible control controls (*i.e.,* factors that influence emissions), including fuel substitution, process changes and work practices, and add-on control technologies.

We considered first whether fuel switching would be an appropriate control option for sources in each subcategory. We considered the feasibility of fuel switching to other fuels used in the subcategory and to fuels from other subcategories. This consideration included determining whether switching fuels would achieve lower HAP emissions. A second consideration was whether fuel switching could be technically achieved by boilers and process heaters in the subcategory considering the existing design of boilers and process heaters. We also considered the availability of various types of fuel.

After considering these factors, we determined that fuel switching was not an appropriate control technology for purposes of determining the MACT floor level of control for any subcategory. This decision was based on the overall effect of fuel switching on HAP emissions, technical and design considerations discussed previously in this preamble, and concerns about fuel availability.

Based on the data available in the emissions database, we determined that while fuel switching from solid fuels to gaseous or liquid fuels would decrease PM and some metals emissions, emissions of some organic HAP would increase, resulting in uncertain benefits. This determination is discussed in the memorandum ''Development of Fuel Switching Costs and Emission Reductions for Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants'' located in the docket. We believe that it is inappropriate in a MACT rulemaking to consider as MACT a control option that potentially will decrease emissions of one HAP while increasing emissions of another HAP. In order to adopt such a strategy, EPA would need to assess the relative risk associated with each HAP emitted, and determine whether requiring the control in question would result in overall lower risk. Such an analysis is not appropriate at this stage in the regulatory process.

A similar determination was made when considering fuel switching to cleaner fuels within a subcategory. For example, the term ''clean coal'' refers to coal that is lower in sulfur content and not necessarily lower in HAP content. Data gathered by EPA also indicates that within specific coal types HAP content can vary significantly. Switching to a low sulfur coal may actually increase emissions of some HAP. Therefore, it is not appropriate for EPA to include fuel switching to a low sulfur coal as part of the MACT standards for boilers and process heaters. Fuel switching from coal to biomass would result in similar

impacts on HAP emissions. While this would reduce metallic HAP emissions, it would likely increase emissions of organics based on information in the emissions database.

Another factor considered was the availability of alternative fuel types. Natural gas pipelines are not available in all regions of the U.S., and natural gas is simply not available as a fuel for many industrial, commercial, and institutional boilers and process heaters. Moreover, even where pipelines provide access to natural gas, supplies of natural gas may not be adequate. For example, it is common practice in cities during winter months (or periods of peak demand) to prioritize natural gas usage for residential areas before industrial usage. Requiring EPA regulated combustion units to switch to natural gas would place an even greater strain on natural gas resources. Consequently, even where pipelines exist, some units would not be able to run at normal or full capacity during these times if shortages were to occur. Therefore, under any circumstances, there would be some units that could not comply with a requirement to switch to natural gas.

Similar problems for fuel switching to biomass could arise. Existing sources burning biomass generally are combusting a recovered material from the manufacturing or agriculture process. Industrial, commercial, and institutional facilities that are not associated with the wood products industry or agriculture may not have access to a sufficient supply of biomass materials to replace their fossil fuel.

As discussed previously in this preamble, there is a significant concern that switching fuels would be infeasible for sources designed and operated to burn specific fuel types. Changes in the type of fuel burned by a boiler or process heater (solid, liquid, or gas) may require extensive changes to the fuel handling and feeding system (*e.g.*, a stoker using wood as fuel would need to be redesigned to handle fuel oil or gaseous fuel). Additionally, burners and combustion chamber designs are generally not capable of handling different fuel types, and generally cannot accommodate increases or decreases in the fuel volume and shape. Design changes to allow different fuel use, in some cases, may reduce the capacity and efficiency of the boiler or process heater. Reduced efficiency may result in less complete combustion and, thus, an increase in organic HAP emissions. For the reasons discussed above, we decided that fuel switching to cleaner solid fuels or to liquid or gaseous fuels is not an appropriate criteria for identifying the MACT floor level of control for units in the boilers and process heaters category.

We also concluded that process changes or work practices were not appropriate criteria for identifying the MACT floor level of control for units in the boilers and process heaters category. The HAP emissions from boilers and process heaters are primarily dependent upon the composition of the fuel. Fuel dependent HAP are metals, including mercury, and acid gases. Fuel dependent HAP are typically controlled by removing them from the flue gas after combustion. Therefore, they are not affected by the operation of the boiler or process heater. Consequently, process changes would be ineffective in reducing these fuel-related HAP emissions.

On the other hand, organic HAP can be formed from incomplete combustion of the fuel. Combustion is defined as the rapid chemical combination of oxygen with the combustible elements of a fuel. The objective of good combustion is to release all the energy in the fuel while minimizing losses from combustion imperfections and excess air. The combination of the fuel with the oxygen requires temperature (high enough to ignite the fuel constituents), mixing or turbulence (to provide intimate oxygen-fuel contact), and sufficient time (to complete the process), sometimes referred to the three Ts of combustion. Good combustion practice (GCP), in terms of boilers and process heaters, could be defined as the system design and work practices expected to minimize organic HAP emissions. The GCP control strategy could include a number of combustion conditions and work practices which are applied collectively to achieve this goal.

While few sources in EPA's database specifically reported using good combustion practices, the data that we have suggests that boilers and process heaters within each subcategory might use any of a wide variety of different work practices, depending on the characteristics of the individual unit. The lack of information, and lack of a uniform approach to assuring combustion efficiency, is not surprising given the extreme diversity of boilers and process heaters, and given the fact that no applicable Federal standards, and most applicable State standards, do not include work practice requirements for boilers and process heaters. Even those States that do have such requirements do not require the same work practices. For example, CO emissions are generally a good indicator of incomplete combustion, and, therefore, low CO emissions might reflect good combustion practices. Therefore, we considered whether existing CO monitoring requirements and emission limits might be used to establish good combustion practice standards for boilers and process heaters. (As discussed previously in this preamble, CO is also a surrogate for organic HAP emissions in the proposed rule.) The population databases did not contain information regarding whether existing units monitored CO emissions. Therefore, we reviewed State regulations applicable to boilers and process heaters, and then for each subcategory we matched the applicability of State CO monitoring requirements or emission limits with information on the locations and characteristics of the boilers and process heaters in the population database. Ultimately, we found that very few units (less than 6 percent) in any subcategory were subject to CO monitoring requirements or emission limits. We concluded that this information did not allow EPA to identify a level of performance that was representative of good combustion across the various units in any subcategory.

Consequently, EPA was unable to identify any uniform requirements or set of work practices that would meaningfully reflect the use of good combustion practices, or that could be meaningfully implemented across any subcategory of boilers and process heaters. Therefore, EPA is not establishing combustion practice requirements as a part of the MACT floor for existing units. However, we have considered the appropriateness of such requirements in the context of evaluation possible beyond-the-floor options.

In general, boilers and process heaters are designed for good combustion. Facilities have an economic incentive to ensure that fuel is not wasted, and the combustion device operates properly and is appropriately maintained. In fact, existing boilers and process heaters are used typically as high efficiency control devices to control (reduce) emission streams containing organic compounds from various process operations. Therefore, EPA's inability to establish a combustion practice requirement as part of the MACT floor for existing sources in this category should not reduce the incentive for owners and operators to run their boilers and process heaters at top efficiency.

We request comment, and emissions information, regarding whether there are any uniform GCP practices that would be appropriate for minimizing organic HAP emissions from any subcategory of

industrial, commercial, and institutional boilers and process heaters.

As a result of the preceding evaluation of the feasibility of establishing emission limits based on control techniques such as fuel switching and good combustion practices, we concluded that add-on control technology should be the primary factor for purposes of identifying the best controlled units within each subcategory of boilers and process heaters. In order to determine the MACT floor based primarily on add-on control technologies, we first examined the population database of existing sources. Units not meeting the definition of an industrial, commercial, or institutional boiler or process heater, and units located at area sources were removed from the database. The remaining units were divided first into three subcategories based on fuel state: gaseous fuel-fired, liquid fuel-fired, and solid fuel-fired units. Each of these three subcategories was then further divided into subcategories based on capacity: (1) Large units (watertube boilers and process heaters with heat inputs greater than 10 MMBtu/hr); (2) small units (firetube boilers and any boiler and process heater with a maximum rated heat input capacity of 10 MMBtu/hr or less); and (3) limited use units with capacity utilization less than 10 percent.

We identified the types of air pollution control techniques currently used by existing boilers and process heaters in each subcategory. We ranked those controls according to their effectiveness in removing the different categories of pollutants; including metallic HAP and PM, inorganic HAP such as acid gases, mercury, and organic HAP. The EPA ranked these existing control technologies by incorporating recommendations made by the ICCR, and by reviewing emissions test data, previous EPA studies, and other literature, as well as by using engineering judgement.

Based upon the emissions reduction potential of existing air pollution control techniques, we listed all the boilers and process heaters in the population database in order of decreasing control device effectiveness within each subcategory for each pollutant type. Then we identified the top 12 percent of units within each category based on this ranking, and determined what kind of emission control technology, or combination of technologies, the units in the top 12 percent employed. Finally, we looked at the emissions test data from boilers and process heaters that used the same control technology, or technologies, as the units in the top 12 percent to estimate the average emissions limitation achieved by these units.

The last part in the process described above, involving the calculation of numerical emission limits, was a two-step analysis. The first step involved calculating a numerical average of an appropriate subset of the emission test data from units using the same technology, or technologies, as the units in the top 12 percent. Based on the initial ranking, we determined what proportion of the units using a particular technology were among the top 12 percent of units in the subcategory. Then we looked at a corresponding proportion of the emission test data from units using that type of control technology, and produced an overall average measured performance level. For example, in the large solid-fuel subcategory, approximately 14 percent of units used the best performing control technology for PM/metallic HAP (baghouses). In order to rank the units using the best technology for which we had emission test data, we generated unit by unit measured performance levels by averaging the multiple tests from each individual unit (if multiple tests were available). Then we looked at the best 12/14 of the units for which we generated such individual averages, and averaged the unit by unit averages from all of these units. This resulted in an overall average measured emissions performance level for units representative of the top 12 percent of units in the subcategory.

The second step in this part of the process involved generating and applying an appropriate variability factor to account for unavoidable variations in emissions due primarily to uncontrollable differences in fuel characteristics and ordinary operational variability. First, we identified all the units for which we had emission test data using the same technology, or technologies, as units in the top 12 percent. Then, for each such unit with multiple emission tests, we calculated the variability in the measured emissions from that unit by dividing the highest three-run test result by the lowest three-run test result. Finally, we calculated the overall variability in the measured emissions from these units by averaging all the individual unit variability factors, and we applied this overall variability factor to the overall average measured emissions performance level (as described above) to derive a emission limit representative of the average emission limitation achieved by the top 12 percent of units.

This approach reasonably ensures that the emission limit selected as the MACT floor adequately represents the average level of control actually achieved by units in the top 12 percent, considering ordinary operational variability. Both the analysis of the measured emissions from units representative of the top 12 percent, and the variability analysis, are reasonably designed to provide a meaningful estimate of the average performance, or central tendency, of the best controlled 12 percent of units in a given subcategory. Using such an approach, including a variability factor, is reasonable because the estimated performance of the best controlled units must account for variability in the performance of the units over time and under different operational conditions. Absent comprehensive emission data, there is no reason to believe that any individual unit could consistently achieve the emission performance demonstrated by a limited set of emission tests. Because, each emission test is but a snapshot of actual and ongoing performance, taken at one moment in time, evaluating the snapshots collectively is the best way to estimate the unavoidable variation in emissions expected to occur and recur over time at similarly controlled units in the category (or subcategory). As a result, the most reasonable methodology for determining the variability among the best controlled units is to evaluate the overall variability in the performance of the particular control technology that those units use, by examining the variability among the emission test results (the performance snapshots) for all similarly controlled units (excluding any emission values from tests that did not represent a proper functioning system). Accordingly, we have used the available emissions data to reasonably estimate the variability of the top performing units in each subcategory.

The EPA's review of emissions data indicates that some boilers and process heaters within each subcategory may be able to meet the floor emission levels without using the air pollution control technology that is used by the top 12 percent of units in the subcategory. This is to be expected given the variety of fuel types, fuel input rates, and boiler designs included within each subcategory and the resulting variability in emission rates. Thus, for instance, boilers or process heaters within the large unit solid fuel subcategory that burn lower percentages of solid fuels may be able to achieve the emission levels for the large unit solid fuel subcategory without the need for additional control devices.

Furthermore, solid fuels, especially coal, are very heterogeneous and can

vary in composition by location. Coal analysis data obtained from the electric utility industry in another rulemaking contained information on the mercury, chlorine, and ash content of various coals. A preliminary review of this data indicate that the composition can vary greatly from location to location, and also within a particular location. Based on the range of variation of mercury, chlorine, and ash content in coal, it is possible for a unit with a lower performing control system to have emission levels lower than a unit considered to be included in the best performing 12 percent of the units.

This situation is reflected in the emissions information used to set the MACT floor emission limits. In some instances there are boilers with ESP or other controls that achieve similar, or lower, outlet emission levels of non-mercury metallic HAP, PM, or mercury than fabric filters. In most cases, this is due to concentrations entering these other control devices being lower, even though the percent reduction achieved is lower than fabric filters.

Additionally, the design of some control devices may have a substantial effect on their emissions reductions capability. For example, fabric filters are largely insensitive to the physical characteristics of the inlet gas stream. Thus, their design does not vary widely, and emissions reductions are expected to be similar (*e.g.* 99 percent reduction of PM). However, ESP design can vary significantly. Some ESP are two fields, others may have three or four. The more fields the larger the emissions reductions for PM. Similarly, other devices can be designed to achieve higher emissions reductions. This level of detail was not available for the information used to develop the MACT floor emission limits.

Consequently, since fuel substitution has been determined not to be an appropriate MACT floor control technology, EPA still considers the fabric filter to be the best performing control for non-mercury metallic HAP, PM, and mercury and only emissions information for fabric filters was used to develop emission limits.

For existing unit subcategories where less than 12 percent of units in the subcategory use any type of control technology, we could not use the same approach to identify the average level of control achieved by the top 12 percent. Therefore, we looked to see if we could estimate the central tendency of the best controlled units by looking at the median unit of the top 12 percent (the unit at the 94th percentile). Under such circumstances, if the median unit of the top 12 percent is using some control technology, we might use the measured emission performance of that individual unit as the basis for estimating an appropriate average level of control of the top 12 percent. For subcategories where even the median unit is using no control technology, the average control of the top 12 percent of units is no emissions reductions.

A detailed discussion of the MACT floor methodology is presented in the memorandum ''MACT Floor Analysis for the Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants'' in the docket.

1. Existing Solid Fuel Boilers and Process Heaters

a. Large Units—Heat Inputs Greater than 10 MMBtu/hr. The most effective control technologies identified for removing non-mercury metallic HAP and PM are fabric filters. About 14 percent of solid fuel-fired boilers and process heaters use fabric filters. Because greater than 12 percent of units in the category use this technology, and because there are no options reasonably available for reducing HAP emissions other than add-on control, we consider sources with fabric filters to be the best controlled sources in this subcategory for purposes of metallic HAP and PM emissions. Thus, it is appropriate to use the measured performance of sources with fabric filters as the basis for establishing the MACT floor for non-mercury metallic HAP and PM for existing boilers and process heaters in this subcategory.

As described earlier, a PM level is set as a surrogate for non-mercury metallic HAP. The MACT floor emission level based on PM test data from the solid fuel units with fabric filters representing the top 12 percent, and incorporating operational variability (using results from multiple tests on best performing units), is 0.07 lb PM/MMBtu. We are also providing an alternative metals limit of 0.001 lb metals/MMBtu which can be used to show compliance in cases where metal HAP emissions are low in proportion to PM emissions. This is because, according to the emissions database, some biomass units have low metals content but high PM emissions. The emission level for metals was selected from metals test data associated with PM emission tests from fabric filters that met the MACT floor PM emission level.

The most effective control technologies identified for removing inorganic HAP that are acid gases, such as HCl, are wet scrubbers and packed bed scrubbers. These technologies are used by about 13 percent of the boilers and process heaters in the large solid fuel subcategory. About 12 percent of solid fuel-fired boilers and process heaters use wet or dry scrubbers, and approximately 1 percent use packed bed scrubbers.

Because greater than 12 percent of units in the category use this technology, and because there are no options reasonably available for reducing HAP emission other than add-on control, we consider sources with wet or dry scrubbers and packed bed scrubbers to be the best controlled sources in this subcategory for purposes of inorganic HAP emissions. Thus, it is appropriate to use the measured performance of sources with wet or dry scrubbers and packed bed scrubbers as the basis for establishing the MACT floor for inorganic HAP for existing boilers and process heaters in this subcategory. The MACT floor emission level based on HCl emissions test data from units using wet or dry scrubbers and packed bed scrubbers representing the top 12 percent, and incorporating operational variability, is 0.09 lb HCl/MMBtu.

Based on test information on utility boilers, we have concluded that fabric filters are the most effective technology for controlling mercury emissions. As discussed previously, approximately 14 percent of sources in the subcategory use fabric filters. The MACT floor emission level for mercury, based on the measured performance of units with fabric filters representing the top 12 percent, and incorporating operational variability, is 0.000007 lb mercury/MMBtu.

Although EPA used information from utility boilers to conclude that fabric filters are the most effective control technology for controlling mercury emissions, this same information suggests that different fuel characteristics (*e.g.* mercury and chlorine content of the fuel burned) can lead to both different outlet mercury (Hg) concentrations and different control efficiencies for equivalent control devices.[1] We have emissions test results for mercury emissions from seven industrial boilers and process heaters equipped with fabric filters. The Agency has information about the general type of fuel being burned during

[1] The speciation of mercury in the flue gas is believed to affect the amount of mercury captured by control devices. Mercury can be present in both vapor form (as insoluble elemental mercury and as soluble oxidized mercury (such as, mercury chloride)) and in particulate form. The capture of elemental mercury is reportedly more difficult than the capture of oxidized mercury or mercury in particulate form.

the emission tests, such as coal, wood, or some mixture of fuel types. However, we have no detailed information about the specific characteristics (such as mercury or chlorine content) of the fuel being burned during those emissions tests. Nonetheless, we believe that the use of variability factors adequately accounts for potential variations in fuel mercury and chloride content.

However, because we have very limited data on actual emissions from industrial boilers and process heaters, the Agency is soliciting comment on whether the variability analysis in the current proposal adequately addresses the impact that fuel characteristics (such as mercury and chlorine content) can have on mercury emissions from a source equipped with fabric filters. As discussed earlier, the Agency is not currently considering fuel switching as a control option in setting the MACT floor. Therefore, the Agency requests specific information regarding both the mercury and chlorine content characteristics of the fuel used in, and the mercury emissions from, industrial boilers and process heaters equipped with well designed and operated fabric filters.

Comments on this issue should include specific data regarding both the characteristics of the fuel burned (including mercury and chlorine content along with any other pertinent characteristics) and current mercury emissions of these industrial boilers and process heaters.

For organic HAP, we attempted to determine the level of control being achieved by the top 12 percent of units within the subcategory, however, less than 6 percent of the units in this subcategory use any type of organic HAP control (by limiting CO emissions). Thus, while a small proportion of units in the subcategory monitor and control their CO emissions (and, therefore, limit emissions of organic HAP), the majority of units in the subcategory (and in the top 12 percent) do not control these emissions. Because so few units control emissions of organic HAP, we could not calculate an average limitation achieved by the top 12 percent as we did for metallic HAP/PM, inorganic HAP/HCl, and mercury. We looked then at whether the median unit of the top 12 percent might provide some indication of the central tendency of the top 12 percent. However, because fewer than 6 percent of units are controlled, the median unit reflects no emissions reductions for organic HAP. Therefore, we concluded that the MACT floor for existing sources in this subcategory is no emissions reductions for organic HAP.

Consequently, EPA determined that, in general, the combination of fabric filter and wet scrubber control technologies forms the basis for the MACT floor level of control for existing large solid fuel boilers or process heaters. We recognize that some boilers and process heaters that use technologies other than those used as the basis of the MACT floor can achieve the MACT floor emission levels. For example, emission test data show that many boilers with well designed and operated ESP can meet the MACT floor emission levels for non-mercury metallic HAP and PM, even though the floor emission level for these pollutants is based on units using a fabric filters (however, we would not expect that all units using ESP would be able to meet the emission limits in the proposed rule).

b. Small Units—Heat Inputs Less than or Equal to 10 MMBtu/hr. For each pollutant group (non-mercury metallic HAP and PM, mercury, inorganic HAP/HCl, and organic HAP), less than 6 percent of the units in this subcategory used control techniques that limit emissions. Because so few units in the subcategory control emissions of HAP, we could not calculate an average limitation achieved by the top 12 percent for any HAP grouping. We looked then at whether the median unit of the top 12 percent might provide some indication of the central tendency of the top 12 percent for any HAP grouping. However, because fewer than 6 percent of units in each HAP grouping used controls or limited emissions, the median unit for each HAP grouping reflects no emissions reduction.

Therefore, we determined that the MACT floor emission level for existing units for each of the pollutant categories in this subcategory is no emissions reductions.

c. Limited Use Units—Capacity Utilizations Less than or Equal to 10 Percent. The most effective control technologies identified for removing non-mercury metallic HAP and PM are ESP and fabric filters. Less than 2 percent of limited use solid fuel-fired boilers and process heaters use fabric filters, and 14 percent use ESP. Therefore, we used the measured performance of units using ESP and fabric filters as the basis for the MACT floor for non-mercury metallic HAP and PM. We established a PM level as a surrogate for non-mercury metallic HAP control, reflecting the emission test data from units using ESP and fabric filters that were representative of the top 12 percent of units in the subcategory.

The emissions test database did not contain test data for limited use boilers and process heaters. In order to develop emission levels for this subcategory, we decided to use information from units in the large solid fuel subcategory. We considered this to be an appropriate methodology because although the units in this subcategory are different enough to warrant their own subcategory (*i.e.*, different purposes and operation), emissions of the specific types of HAP for which limits are being proposed (HCl and non-mercury metals) are expected to be related more to the type of fuel burned and the type of control used, than to unit operation. Consequently, we determined that emissions information from the large solid fuel subcategory could be used to establish MACT floor levels for this subcategory because the fuels and controls are similar. The MACT floor emission level based on this test data, considering operational variability, is 0.02 lb PM/MMBtu. We are also providing an alternative metals limit of 0.001 lb metals/MMBtu which can be used to show compliance in cases where metal HAP emissions are low in proportion to PM emissions. The emissions database indicates that some biomass units have low metals content but high PM emissions. The emission level for metals was selected from metals test data associated with PM emission tests from fabric filters that met the MACT floor PM emission level.

Similar control technology analyses were done for the boilers and process heaters in this subcategory for the other pollutant groups of interest, including inorganic HAP, organic HAP and mercury. For each of these pollutant groups, less than 6 percent of the units in this subcategory used control techniques that limit emissions. Because so few units in the subcategory control emissions of these HAP, we could not calculate an average limitation achieved by the top 12 percent for inorganic HAP, organic HAP and mercury. We looked then at whether the median unit of the top 12 percent might provide some indication of the central tendency of the top 12 percent for any of these HAP groupings. However, because fewer than 6 percent of units in each HAP grouping used controls or limited emissions, the median unit for each HAP grouping reflects no emission reductions. Therefore, we concluded that the MACT floor for inorganic HAP, organic HAP and mercury in this subcategory is no emissions reductions. Consequently, we determined that ESP and fabric filters, which achieve non-mercury metallic HAP and PM control, form the basis for the MACT floor level of control for

existing solid fuel boilers and process heaters in this subcategory.

2. Existing Liquid Fuel Boilers and Process Heaters

Emission data for liquid subcategories were inadequate to identify the best performing sources for reasons described previously in this preamble. We also found no State regulations or permits which specifically limit HAP emissions from these sources. Therefore, we examined control technology information to identify a MACT floor. We found that less than 6 percent of the units in each of the liquid subcategories used control techniques that would reduce non-mercury metallic HAP and PM, mercury, organic HAP, or acid gases, (such as HCl). Therefore, we concluded, for each subcategory of liquid fueled boilers and process heaters, that the MACT floor is no emission reductions for non-mercury metallic HAP, mercury, inorganic HAP, and organic HAP.

3. Existing Gaseous Fuel Boilers and Process Heaters

Emission data for gas subcategories were inadequate to identify the best performing sources for reasons described in section III.D of this preamble. We also found no State regulations or permits that specifically limit HAP emissions from these sources. Therefore, we examined control technology information to identify a MACT floor. We found that no existing units in the gaseous fuel-fired subcategories were using control technologies that achieve consistently lower emission rates than uncontrolled sources for any of the pollutant groups of interest. Therefore, we are unable to identify the best performing 12 percent of units in the subcategories. Consequently, EPA determined that no existing source MACT floor based on control technologies could be identified for gaseous fuel-fired units. Therefore, we concluded the MACT floor for existing sources in this subcategory is no emissions reductions for non-mercury metallic HAP, mercury, inorganic HAP, and organic HAP.

E. How Did EPA Consider Beyond-the-Floor Options for Existing Units?

Once the MACT floor determinations were done for each subcategory, EPA considered various regulatory options more stringent than the MACT floor level of control (*i.e.*, technologies or other work practices that could result in lower emissions) for the different subcategories.

Maintaining and monitoring CO levels was identified as a possible control for organic HAP. In addition to looking at whether CO limits should be a part of the MACT floor, we looked at this option as a beyond-the-floor option. However, information was not available to estimate the HAP emissions reductions that would be associated with CO monitoring and emission limits. This option would also require a high cost to install and operate CO monitors. Given the cost and the uncertain emissions reductions that might be achieved, we chose to not require CO monitoring and emission limits as MACT.

The following sections discuss the beyond-the-floor options analyzed to control emissions of metallic HAP, mercury, and inorganic HAP. Based on the analysis in these sections, EPA decided to not go beyond the MACT floor level of control for the proposed rule for any of the subcategories of existing sources. A detailed description of the beyond-the-floor consideration is in the memorandum ''Methodology for Estimating Cost and Emissions Impacts for Industrial, Commercial, Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants'' in the docket.

1. Existing Solid Fuel Units

a. Large Units—Heat Inputs Greater than 10 MMBtu/hr. Besides fuel switching, we identified a better designed and operated fabric filter (the MACT floor for new units) as a control technology that could achieve greater emissions reductions of metallic HAP and PM emissions than the MACT floor level of control. Consequently, EPA analyzed the emissions reductions and additional cost of adopting an emission limit representative of the performance of a unit with a better designed and operated fabric filter. The additional annualized cost to comply with this emission limit was estimated to be approximately 500 million dollars with an additional emission reduction of approximately 100 tons of metallic HAP. The results indicated that while additional emissions reductions would be realized, the costs would be too high to consider it a feasible beyond-the-floor option. Nonair quality health, environmental impacts, and energy effects were not significant factors, because there would be little difference in the nonair quality health and environmental impacts of replacing existing fabric filters with improved performance fabric filters. Therefore, we did not select these controls as MACT. Fuel switching was not considered a feasible beyond-the-floor option for the same reasons described previously in this preamble.

We identified packed bed scrubbers as a control technology that could achieve greater emissions reductions of inorganic HAP, like HCl, than the MACT floor level of control. Consequently, EPA analyzed the emissions reductions and additional cost of adopting an emission limit representative of the performance of a unit with a packed bed scrubber. The additional annualized cost to comply with this emission limit (using a packed bed scrubber) was estimated to be approximately 900 million dollars with an additional emission reduction of approximately 20,000 tons of HCl. The results indicated that while additional emissions reductions would be realized, the costs would be too high to consider it a feasible beyond-the-floor option. Nonair quality health, environmental impacts, and energy effects were not significant factors, because there would be little difference in the nonair quality health and environmental impacts between packed bed scrubbers and the technology that is likely to be used to meet the MACT floor level of control. Therefore, we did not select these controls as MACT.

In reviewing potential regulatory options for existing sources, EPA identified one existing industrial boiler that was using a technology, carbon injection, used in other industries to achieve greater control of mercury emissions than the MACT floor level of control. However, emission data indicated that this unit was not achieving mercury emission reduction. The EPA does not have information that would show carbon injection is effective for reducing mercury emissions from industrial, commercial, and institutional boilers and process heaters. Therefore, carbon injection was not evaluated as a regulatory options.

However, EPA requests comments on whether carbon injection should be considered as a beyond-the-floor option and whether existing industrial, commercial, or institutional boilers and process heaters could use carbon injection technology, or other control techniques to consistently achieve mercury emission levels that are lower than levels from similar sources with the MACT floor level of control. Comments should include information on emissions, current demonstrated applications, and costs, including retrofit costs. The EPA is aware that research continues on ways to improve mercury capture by PM controls, sorbent injection, and the development of novel techniques. The EPA requests comment and information on the effectiveness of such control

technologies in reducing mercury emissions.

b. Small Units—Heat Inputs Less than or Equal to 10 MMBtu/hr. The MACT floor for this subcategory is no emission reductions. To control non-mercury metallic HAP and mercury, we analyzed the beyond-the-floor option of a fabric filter which was identified, generally, as the most effective control device for non-mercury metallic HAP and mercury. To control inorganic HAP such as HCl, we analyzed the beyond-the-floor option of a wet scrubber since it was identified as the least cost option.

The total annualized cost of complying with the fabric filter option was estimated to be 10 million dollars, with an estimated emission reduction of 1.9 tons per year of non-mercury metallic HAP and 0.003 tons of mercury. The annualized cost of complying with the wet scrubber option was estimated to be 11 million dollars, with an emission reduction of 48 tons per year of HCl. The results of this analysis indicated that while additional emissions reductions could be realized, the costs would be too high to consider them feasible options. Therefore, we did not select these controls as MACT. Nonair quality health, environmental impacts, and energy effects were not significant factors.

c. Limited Use Units—Capacity Utilizations Less than or Equal to 10 Percent. The MACT floor level for this subcategory for non-mercury metallic HAP control is 0.2 lb PM/MMBtu (this level of control can generally be achieved by using an ESP or fabric filter). Although fabric filters were identified as being more effective, many ESP can achieve similar levels. Any additional emission reduction from using a fabric filter would be minimal and costly considering retrofit costs for existing units that already have ESP. Therefore, a beyond-the-floor option for metallic HAP was not analyzed in detail. However, a beyond-the-floor option based on the level of performance of a fabric filter was analyzed for mercury control. The total annualized costs of the fabric filter option was estimated to be an additional 21 million dollars, with an estimated emission reduction of 0.04 tons of mercury.

The MACT floor for inorganic HAP in this subcategory was no emission reductions. For beyond-the-floor control of inorganic HAP, we analyzed the level of performance generally achievable by a wet scrubber since it was identified as the least cost option. The total annualized costs of the wet scrubber option was estimated to be 49 million dollars, with an estimated emission reduction of 463 tons per year of HCl.

The results of the beyond-the-floor analyses indicated that while additional emissions reductions could be realized, the costs would be too high to consider them feasible options. Therefore, we did not select these controls as MACT. Nonair quality health, environmental impacts, and energy effects were not significant factors.

2. Existing Liquid Fuel Units

The MACT floor for each liquid fuel subcategory is no emission reductions. For beyond-the-floor options for the liquid subcategory, EPA identified several PM controls (*e.g.*, fabric filters, ESP, and venturi scrubbers) that would reduce non-mercury metallic HAP emissions. For the beyond-the-floor analysis, we analyzed the cost and emission reduction of applying a high efficiency PM control device, such as a fabric filter, since these would be more likely to be installed for units firing liquid fuel. We identified wet scrubbers as a technology beyond-the-floor option for reduction of inorganic HAP, such as HCl. We identified fabric filters as a beyond-the-floor technology option for reduction of mercury. Consequently, EPA analyzed the emissions reductions and additional cost of applying high efficiency PM controls and wet scrubbers on liquid fuel-fired units. The additional total annualized cost of a high efficiency PM control device (such as a fabric filter) was estimated to be 460 million dollars, with an additional estimated emission reduction of 1,500 tons per year for non-mercury metallic HAP and 3 tons per year for mercury. The annualized cost of a wet scrubbers was estimated to be an additional 480 million dollars, with an additional HCl reduction of 30 tons per year. The results indicated that while additional emissions reductions would be realized, the costs would be too high to consider them feasible options. Nonair quality health, environmental impacts, and energy effects were not significant factors. Therefore, EPA chose to not select these controls as MACT for existing liquid units.

3. Existing Gas-Fired Units

The MACT floor for each gaseous fuel subcategory is no emission reductions. The great majority, if not all, of the emissions from gas-fired units are organic HAP. As discussed previously in this preamble, CO monitoring and emission limits were considered as a beyond-the-floor option, but were not selected as MACT given the costs and uncertain HAP reductions achieved. Therefore, no beyond-the-floor control technique was analyzed for organic HAP, and MACT is no emission reduction of non-mercury metallic HAP, mercury, inorganic HAP, and organic HAP.

4. Fuel Switching as a Beyond-the-Floor Option

For the solid fuel and liquid fuel subcategories, fuel switching to natural gas is a regulatory option more stringent than the MACT floor level of control that would reduce mercury, metallic HAP, and inorganic HAP emissions. We determined that fuel switching was not an appropriate beyond-the-floor option for the reasons discussed previously in this preamble. For example, natural gas supplies are not available in some areas, and supplies to industrial customers can be limited during periods when natural gas demand exceeds supply. Furthermore, in some cases, organic HAP would be increased by fuel switching. Additionally, the estimated emissions reductions that would be achieved if solid and liquid fuel units switched to natural gas were compared with the estimated cost of converting existing solid fuel and liquid fuel units to fire natural gas. The annualized cost of fuel switching was estimated to be $12 billion. The additional emission reduction associated with fuel switching was estimated to be 1,500 tons per year for metallic HAP, 11 tons per year for mercury, and 13,000 tons per year for inorganic HAP. Additional detail on the calculation procedures is provided in the memorandum ''Development of Fuel Switching Costs and Emissions Reductions for Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants'' in the docket.

F. Should EPA Consider Different Subcategories for Solid Fuel Boilers and Process Heaters?

The boilers and process heaters source category is tremendously heterogeneous. The EPA has attempted to identify subcategories that provide the most reasonable basis for grouping and estimating the performance of generally similar units using the available data. We believe that the subcategories we selected are appropriate, given the variety and combination of fuels that sources in the category burn and the fact that any individual unit may use a different combination of fuels over time.

However, among the solid fuel units, the available emission test data could suggest that units burning only wood might perform sufficiently similar to each other, and sufficiently differently

from other (fossil fuel burning) solid fuel units, to warrant additional subcategorization. Nonetheless, we believe, for purposes of today's proposal, that it is appropriate to treat wood burning and non-wood burning solid fuel units as a single category. We believe, given the available data, that this approach most reasonably accounts for variations in emissions that can occur as a result of different fuels and/or fuel combinations, and changes in fuel use over time, and that it provides a reasonable basis for establishing an appropriate standard.

However, if we were to create a separate subcategory for wood burning units, we would establish MACT in a manner consistent with the approach taken for other solid fuel units. We would identify the types of emission control used by the best controlled source (and the top 12 percent of units in the subcategory), and we would estimate the performance of the best controlled units by looking at representative emission test data and applying an appropriate variability factor. A preliminary review of the wood burning units in the database suggests that the MACT floors for such units would probably be related to the performance of ESP and/or scrubbers.

The EPA requests comments on whether additional or different subcategories should be considered. Comments should include detailed information regarding why a new or different subcategory is appropriate (based on the available data or adequate data submitted with the comment), how EPA should define any additional/different subcategories, how EPA should account for varied or changing fuel mixtures, and how EPA should use the available data to determine the MACT floor for any new or different categories.

G. How Did EPA Determine the Proposed Emission Limitations for New Units?

All standards established pursuant to section 112 of the CAA must reflect MACT, the maximum degree of reduction in emissions of air pollutants that the Administrator, taking into consideration the cost of achieving such emissions reductions, and any nonair quality health and environmental impacts and energy requirements, determines is achievable for each category. The CAA specifies that MACT for new boilers and process heaters shall not be less stringent than the emission control that is achieved in practice by the best-controlled similar source—this minimum level of stringency is the MACT floor for new units. However, EPA may not consider costs or other impacts in determining the MACT floor. The EPA must consider cost, nonair quality health and environmental impacts, and energy requirements in connection with any standards that are more stringent than the MACT floor (beyond-the-floor controls).

H. How Did EPA Determine the MACT Floor for New Units?

Similar to the MACT floor process used for existing units, we considered several approaches to identifying MACT floors for new industrial, commercial, and institutional boilers and process heaters. First, we considered using only the emission test data from boilers and process heaters to set the MACT floor. However, as discussed previously in this preamble, we determined that it was inappropriate in the proposed rulemaking to develop MACT floor emission limits based on HAP emissions test information alone.

We then considered using HAP emission limits contained in State regulations and permits as a surrogate to actual emission data in order to identify the emissions levels from the best performing units in the category for purposes of establishing MACT standards. However, we found no State regulations or State permits which specifically limit HAP emissions from these sources.

Consequently, we concluded that the most appropriate approach for identifying the top performing units in each subcategory of boilers and process heaters is to look at the control technologies used by the units within each subcategory. Information was available on the add-on control technologies employed by the population of boilers identified by the EPA. We considered several possible control options (*i.e.*, factors that influence emissions), including fuel substitution, process changes and work practices, and add-on control technologies.

We considered first whether fuel switching would be an appropriate control option for sources in each subcategory. We considered the feasibility of both fuel switching to other fuels used in the subcategory and to fuels from other subcategories. This consideration included determining whether switching fuels would achieve lower HAP emissions. A second consideration was whether fuel switching could be technically achieved by boilers and process heaters in the subcategory based on design considerations. We also considered the availability of various types of fuel.

As discussed previously in this preamble, we determined that fuel switching was not an appropriate control technology for purposes of determining the MACT floor level of control for any subcategory. This decision was based on the overall effect of fuel switching on HAP emissions, technical and design considerations discussed previously in this preamble, and concerns about fuel availability. Additional discussion of fuel switching is presented previously in this preamble and in the memorandum ''Development of Fuel Switching Costs and Emission Reductions for Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants'' located in the docket.

Based on the data available in the emissions database, we determined that while fuel switching would decrease some HAP, emissions of some organic HAP would increase, resulting in uncertain benefits. We believe that it is inappropriate in a MACT rulemaking to consider as MACT a control option that potentially will decrease emissions of one HAP while increasing emissions of another HAP. A detailed discussion of the consideration of fuel switching is discussed previously in this preamble.

We also concluded that process changes or work practices were not appropriate criteria for identifying the MACT floor level of control for units in the boilers and process heaters category. The HAP emissions from boilers and process heaters are primarily dependent upon the composition of the fuel. Fuel dependent HAP are metals, including mercury, and acid gases. Fuel dependent HAP are typically controlled by removing them from the flue gas after combustion. Therefore, they are not affected by the operation of the boiler or process heater. Consequently, process changes would be ineffective in reducing these fuel-related emissions.

On the other hand, organic HAP can be formed from incomplete combustion of the fuel. Combustion is defined as the rapid chemical combination of oxygen with the combustible elements of a fuel. The objective of good combustion is to release all the energy in the fuel while minimizing losses from combustion imperfections and excess air. The combination of the fuel with the oxygen requires temperature (high enough to ignite the fuel constituents), mixing or turbulence (to provide intimate oxygen-fuel contact), and sufficient time (to complete the process), sometimes referred to the three Ts of combustion. Good combustion practice, in terms of boilers and process heaters, could be defined as the system design and work practices expected to minimize organic HAP emissions. The GCP control

strategy could include a number of combustion conditions and work practices which are applied collectively to achieve this goal.

While few sources in EPA's database specifically reported using good combustion practices, the data that we have suggests that boilers and process heaters within each subcategory might use any of a wide variety of different work practices, depending on the characteristics of the individual unit. The lack of information, and lack of a uniform approach to assuring combustion efficiency, is not surprising given the extreme diversity of boilers and process heaters, and given the fact that no applicable Federal standards, and most applicable State standards, do not include work practice requirements for boilers and process heaters. Even those States that do have such requirements do not require the same work practices.

Consequently, EPA was unable to identify any uniform requirements or set of work practices that would meaningfully reflect the use of good combustion practices, or that could be meaningfully implemented across any subcategory of boilers and process heaters. Therefore, EPA is not establishing combustion practice requirements as a part of the MACT floor for new units. However, we have considered the appropriateness of such requirements in the context of evaluating possible above the floor options.

In general, boilers and process heaters are designed for good combustion. Facilities have an economic incentive to ensure that fuel is not wasted, and the combustion device operates properly and is appropriately maintained. In fact, existing boilers and process heaters are used as high efficiency control devices to control (reduce) emission streams containing organic compounds from various process operations. Therefore, EPA's inability to establish a combustion practice requirements as a part of the MACT floor for new sources in this category should not reduce the incentive for owners and operators to run their boilers and process heaters at top efficiency.

Nonetheless, we consider monitoring and maintaining CO emission levels to be associated with minimizing emissions of organic HAP. Carbon monoxide is generally an indicator of incomplete combustion because CO will burn to carbon dioxide if adequate oxygen is available. Therefore, controlling CO emissions can be a mechanism for ensuring combustion efficiency and may be viewed as a kind of GCP. As discussed previously in this preamble, CO is considered a surrogate for organic HAP emissions in the proposed rule.

To determine if CO monitoring would be the basis of the new source MACT floor for organic emissions control, we examined available information. The population databases did not contain information on existing units monitoring CO emissions. We reviewed State regulations applicable to boilers and process heaters that required the use of CO monitoring to maintain a specific CO limit. We then matched the applicability of each of the State regulations with information on the locations and characteristics of the boilers and process heaters in the population database for each subcategory to determine if each subcategory would have at least one unit that would be required to meet the CO requirements. The analysis of the State regulations indicated that at least one of the boilers and process heaters in the large and limited use subcategories for solid fuel, liquid fuel, and gaseous fuel were required to monitor CO emissions and meet a CO limit of 400 parts per million. Therefore, the new source MACT floor level of control includes a CO work practice standard of 400 parts per million for large and limited use units, reflecting the MACT floor level of control for emissions of organic HAP.

We concluded for new units that, except for CO monitoring for organic HAP, add-on control technology is the only factor that significantly controls emissions. To determine the MACT floor for new sources, EPA reviewed the population database of existing major sources. Data for units not meeting the definition of an industrial, commercial, or institutional boiler or process heater were removed from the database. Also, boilers and process heaters that would not be covered by the proposed rule, including units located at area source facilities, were not included in the analyses. As with the existing source analysis, the remaining units in the population database were first divided into three subcategories: gaseous fuel-fired units, liquid fuel-fired units, and solid fuel-fired units. They were further divided into normal use units (units with greater than 10 percent capacity utilization) and limited use units (units with less than or equal to 10 percent capacity utilization) based on hours of operation and additional descriptions provided in the population database. Units were further divided into large units (greater than 10 MMBtu/hr heat input) and small units (less than or equal to 10 MMBtu/hr heat input).

Based upon the emission reduction potential of existing air pollution control devices, EPA listed all the boilers and process heaters in the population database in order of decreasing control device effectiveness for each subcategory and each type of pollutant. Once the ranking of all existing boilers and process heaters was completed for each subcategory and type of pollutant, EPA identified, for each grouping, the control technology used by the best controlled unit. Then, for each pollutant type in each subcategory, we used the available emission test data from units using the best control technology to identify the single unit with the best average measured performance. We then calculated an emission limit, based on the measured performance of this single unit, by applying an appropriate variability factor to account for unavoidable variations in emissions due to uncontrollable variations in fuel characteristics.

The approach that we use to calculate the MACT floors for new sources is somewhat different from the approach that we use to calculate the MACT floors for existing sources. While the MACT floors for existing units are intended to reflect the average performance achieved by a representative group of sources, the MACT floors for new units are meant to reflect the emission control that is achieved in practice by the best controlled source. Thus, for existing units, we are concerned about estimating the central tendency of a set of multiple units, while for new units, we are concerned about estimating the level of control that is representative of that achieved by a single best controlled source. As with the analysis for existing sources the new unit analysis must account for variability. To accomplish this for new sources, for the fuel dependent HAP emissions, we attempt to determine what the best controlled source can achieve in light of the inherent and unavoidable variations in the HAP content of the fuel that such unit might potentially use. For non-fuel dependent HAP emissions, on the other hand, we look at the inherent variability of the control technology used by sources in the category. These approaches, respectively, represent the most reasonable way to estimate performance for purposes of establishing MACT floors for new units, given the data available.

Thus, for new units, after identifying the best control technology for each pollutant group within each subcategory (based on the control technology rankings), EPA examined the emissions

data available for boilers and process heaters controlled by these technologies to determine achievable emission levels for PM (as a surrogate for non-mercury metallic HAP), total selected non-mercury metallic HAP, mercury, HCl (as a surrogate for inorganic HAP), and CO (as a surrogate for organic HAP). First, we identified the units using the best control technology for which we had emissions data. We then averaged the emission data for any unit with multiple test results, and rank these units based on the unit by unit average measured emissions performance. Then, we identified the unit with the best average measured emissions performance. Finally, to estimate the emission control achievable by this unit, we applied a variability factor to the average measured emissions performance of the best unit. For fuel dependent HAP emissions (mercury and HCl), we calculated the variability factor by looking at data on HAP variability in coal from an analysis of coal properties obtained through a utility-related information collection request. We derived the fuel dependent variability factor by dividing the highest observed HAP concentration by the lowest observed HAP concentration from the utility coal analysis. There is no reason to expect that utilities use significantly different coal than is available to industrial boilers and process heaters, and coal is the solid fuel that is routinely used in such units that has generally the greatest degree of HAP variability. Once we calculated the fuel dependent variability factors, we applied these factors to the average measured emissions performance of the unit with the best data to derive the MACT floor level of control. This approach reasonably estimates the best source's level of control, adjusted for unavoidable variation in fuel characteristics which have a direct impact on emissions.

For non-fuel dependent HAP emissions (PM/metallic HAP), we calculated the appropriate variability factor in the same general manner as we did for existing units. We calculated a variability factor for each unit using the same control technology as the unit with the best emissions data, and then calculated the overall variability in the measured emissions from units using this technology by averaging all the individual unit variability factors. Finally, we applied this overall variability factor to the average measured emissions performance of the unit with the best emissions data.

For new unit subcategories where no units in the subcategory employed any type of control technology, we could not identify data to represent the level of control of the best controlled similar unit. Accordingly, the MACT floor level of control for such subcategories is no emissions reductions.

A detailed description of the MACT floor determination is in the memorandum ''MACT Floor Analysis for Industrial, Commercial, and Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants'' in the docket.

1. New Solid Fuel-Fired Units

a. Large Units—Heat Inputs Greater than 10 MMBtu/hr. The most effective control technology identified for removing non-mercury metallic HAP and PM is fabric filters. Therefore, because there are no options reasonably available for reducing non-mercury metallic HAP emissions other than add-on control, we consider a source with a fabric filter to be the best controlled similar unit in this subcategory for purposes of non-mercury metallic HAP and PM emissions. Thus, it is appropriate to use the measured performance of the best controlled source with a fabric filter as the basis for establishing the MACT floor for non-mercury metallic HAP and PM for new boilers and process heaters in this subcategory.

As described earlier, a PM level is set as a surrogate for non-mercury metallic HAP. The MACT floor emission level based on PM test data from the solid fuel unit with a fabric filter representing the best controlled similar unit, and incorporating operational variability, is 0.026 lb PM/MMBtu. We are also providing an alternative metals limit of 0.0001 lb metals/MMBtu which can be used to show compliance in cases where metals HAP emissions are low in proportion to PM emissions. This is because, according to the emissions database, some biomass units have low metals content but high PM emissions. The emission level for metals was selected from metals test data associated with PM emission tests from fabric filters that met the MACT floor PM emission level.

The most effective control technologies identified for removing inorganic HAP including acid gases, such as HCl, are wet or dry scrubbers. Wet scrubbers is a generic term that is most often used to describe venturi scrubbers, but can include packed bed scrubbers, impingement scrubbers, etc. One percent of boilers and process heaters in this subcategory reported using a packed bed scrubber. Emission test data from other industries suggests that packed bed scrubbers achieve consistently lower emission levels than other types of wet scrubbers. Because there are no options reasonably available for reducing HCl emissions other than add-on control, we consider a source with a packed bed scrubber to be the best controlled similar source in this subcategory for purpose of HCl emissions. The MACT floor emission level based on HCl test data from the solid fuel unit with a wet scrubber representing the best controlled similar unit, and incorporating operational variability, is 0.02 lb HCl/MMBtu.

For mercury control, one technology, carbon injection, that has demonstrated mercury reductions in other source categories (*i.e.*, municipal waste combustors), was identified as being used on one existing industrial boiler. However, test data on this carbon injection system indicated that this unit was not achieving mercury emissions reductions. Therefore, we did not consider carbon injection to be a MACT floor control technology for industrial, commercial, and institutional boilers and process heaters. Data from electric utility boilers indicate that fabric filters are the most effective technology for controlling mercury emissions. Therefore, we consider a source with a fabric filter to be the best controlled similar source in this subcategory for purpose of mercury emissions. The MACT floor emission level based on mercury test data from the solid fuel unit with a fabric filter representing the best controlled similar unit, and incorporating operational variability, is 0.000003 lb mercury/MMBtu.

Although EPA used information from utility boilers to conclude that fabric filters are the most effective control technology for controlling mercury emissions, this same information suggests that different fuel characteristics (*e.g.* mercury and chlorine content of the fuel burned) can lead to different outlet Hg concentrations and different control efficiencies for equivalent control devices. We have information about the general type of fuel being burned during the emission tests. However, we have no detailed information about the specific characteristics (such as mercury or chlorine content) of the fuel being burned during the emissions tests for the best controlled source. Nonetheless, EPA believes that the use of variability factors adequately accounts for potential variations in fuel mercury and chloride content.

However, because we have very limited data on actual emissions from industrial boilers and process heaters, the Agency is soliciting comment on whether the variability analysis in the

current proposal adequately addresses the impact that fuel characteristics (such as mercury and chlorine content) can have on mercury emissions from sources equipped with fabric filters. As discussed earlier, the Agency is not currently considering fuel switching as a control option in setting the MACT floor. Therefore, the Agency requests specific information regarding both the mercury and chlorine content characteristics of the fuel used in, and the mercury emissions from, industrial boilers and process heaters equipped with well designed and operated fabric filters.

Comments on this issue should include specific data regarding both the characteristics of the fuel burned (including mercury and chlorine content along with any other pertinent characteristics) and current mercury emissions of these industrial boilers and process heaters.

Similar control technology analysis was done for the boilers and process heaters in this subcategory for organic HAP. One control technique, controlling inlet temperature to the PM control device, that has demonstrated controlling downstream formation of dioxins in other source categories (*e.g.*, municipal waste combustors) was analyzed for industrial boilers. Inlet and outlet dioxins test data were available on four boilers controlled with PM control devices. In all cases, no increase in dioxins emissions were indicated across the PM control device even at high inlet temperatures. However, we are requesting comment on controls that would achieve reductions of organic HAP, including any additional data that might be available. The EPA did find that CO monitoring can reduce organic HAP emissions, and has included it in the new source MACT floors as described previously in this preamble.

In light of this analysis, EPA determined that, in general, the combination of a fabric filter, a packed bed scrubber, and CO monitoring forms the basis for the MACT floor level of control for new solid fuel boilers and process heaters in this subcategory.

b. Small Units—Heat Inputs Less than or Equal to 10 MMBtu/hr. The most effective control technology identified for removing non-mercury metallic HAP and PM is fabric filters. Because there are no options reasonably available for reducing non-mercury metallic HAP emissions other than add-on control, we consider a source with a fabric filter to be the best controlled similar unit in this subcategory for purposes of non-mercury metallic HAP and PM emissions. The most effective control technology identified for units in this subcategory for removing acid gases, such as HCl, is wet scrubbers. The most effective control technology identified for removing mercury is fabric filters.

The EPA identified no control technology being used in the existing population of boilers and process heaters that consistently achieved lower emission rates than uncontrolled levels, such that a best controlled similar source for organic HAP could be identified. Therefore, we concluded that the MACT floor for new sources in this subcategory is no emissions reductions for organic HAP. Furthermore, CO monitoring is not required for small boilers and process heaters by any State rules.

Consequently, EPA determined that the combination of a fabric filter and a wet scrubber forms the basis for the MACT floor level of control for new solid fuel boilers and process heaters in this subcategory.

The emissions database did not contain test data for boilers and process heaters less than 10 MMBtu/hr heat input. In order to develop emission levels for this subcategory, we decided to use test data from units in the large solid subcategory. We considered this to be an appropriate methodology because although the units in this subcategory are different enough to warrant their own subcategory (*i.e.*, different designs and emissions), emissions of the specific HAP for which limits are being proposed (HCl, mercury, PM and metals) are expected to be related more to the type of fuel burned and the type of control used than to the unit design. Consequently, we determined that emissions test data from units greater than 10 MMBtu/hr heat input could be used to establish the MACT floor levels for this subcategory for HCl, PM, non-mercury metallic HAP (using PM as a surrogate), and mercury because the fuels and controls are similar.

The MACT floor emission levels based on emissions data from the unit representing the best controlled similar source, and incorporating operational variability, are 0.026 lb PM/MMBtu or 0.0001 lb selected non-mercury metals/MMBtu, 0.000003 lb mercury/MMBtu, and 0.02 lb HCl/MMBtu. We are requesting comment on using emission data from another subcategory to develop emission levels for this subcategory. We are also requesting any available emissions information for this subcategory.

c. Limited Use Units—Capacity Utilizations Less than or Equal to 10 Percent. The most effective control technology identified for removing non-mercury metallic HAP, PM, and mercury is fabric filters. Therefore, we consider a source with a fabric filter to be the best controlled similar unit in this subcategory for purposes of non-mercury metallic HAP, PM, and mercury emissions. The most effective control technology identified for units in this subcategory for removing acid gases, such as HCl, is wet scrubbers.

The EPA did find that monitoring CO is used by at least one unit and can minimize organic HAP emissions, and has included it in the new source MACT floor for this subcategory as described previously in this preamble.

Therefore, based on this analysis, EPA determined that the combination of a fabric filter, a wet scrubber, and CO monitoring forms the basis for the MACT floor level of control for new solid fuel boilers and process heaters in this subcategory.

The emissions test database did not contain test data for limited use boilers and process heaters. In order to develop emission levels for this subcategory, we decided to use test data from units in the large solid fuel subcategory. We considered this to be an appropriate methodology because although the units in this subcategory are different enough to warrant their own subcategory (*i.e.*, different purposes and operation), emissions of the specific types of HAP for which limits are being proposed (HCl, mercury, and metals) are expected to be related more to the type of fuel burned and the type of control used, than to unit operation. Consequently, we determined that emissions information from the large solid fuel subcategory could be used to establish MACT floor levels for this subcategory because the fuels and controls are similar. The MACT floor emission levels based on test data from unit representing the best controlled similar source, and incorporating operational variability, are 0.026 lb PM/MMBtu or 0.0001 lb metals/MMBtu, 0.000003 lb mercury/MMBtu, and 0.02 lb HCl/MMBtu. We are requesting comment on using emission data from another subcategory to develop emission levels for this subcategory. We are also requesting any available emissions information for this subcategory.

2. New Liquid Fuel-Fired Units

a. Large Units—Heat Inputs Greater than 10 MMBtu/hr. The most effective control technology identified for removing non-mercury metallic HAP and PM is ESP. Therefore, because there are no options reasonably available for reducing non-mercury metallic HAP emissions other than add-on control, we consider a source with an ESP to be the best controlled similar unit in this subcategory for purposes of non-

mercury metallic HAP and PM emissions.

As discussed earlier, a PM level is set as a surrogate for non-mercury metallic HAP. The emissions database did not contain test data for boilers and process heaters with ESP. In order to develop a PM emission level for this subcategory, we decided to use test data from oil-fired utility boilers controlled with ESP. We considered this to be an appropriate methodology because although the units in this subcategory are generally smaller than utility boilers, emissions of the specific HAP for which limits are being proposed (PM as a surrogate for metals) are expected to be related more to the type of fuel burned and the type of control used than to the size of the unit. Consequently, we determined that emissions test data from oil-fired utility boilers could be used to establish the MACT floor levels for this subcategory for non-mercury metallic HAP (using PM as a surrogate) because the fuels and controls are similar.

The MACT floor emission level based on PM emissions data from the unit representing the best controlled similar source, and incorporating operational variability, is 0.03 lb PM/MMBtu. Unlike for solid fuel subcategories, we are not aware of any liquid fuels that are low in metals but would have high PM emissions. Therefore, we are not proposing an alternative metals standard for the liquid subcategories.

The most effective control technology identified for removing inorganic HAP that are acid gases, such as HCl, are packed bed scrubbers. Because there are no options reasonably available for reducing HCl emissions other than add-on control, we consider a source with a packed bed scrubber to be the best controlled similar source in this subcategory for purpose of HCl emissions. The emissions database did not contain HCl test data for liquid fuel boilers and process heaters. In order to develop a HCl emission level for this subcategory, we decided to use available fuel analysis data from oil-fired units and emission reduction performance of well designed and operated packed bed scrubbers. We considered this to be an appropriate methodology because this approach reasonably estimates the best source's level of control, adjusted for unavoidable variation in fuel characteristics which have a direct impact on emissions. The MACT floor emission level based on the estimated performance from a liquid fuel unit with a packed scrubber representing the best controlled similar unit, and incorporating operational variability, is 0.0005 lb HCl/MMBtu.

Similar control technology analyses were done for the boilers and process heaters in this subcategory for mercury and organic HAP.

Information in the emissions database or from other source categories does not show that control technologies, such as fabric filters, ESP, or wet scrubbers, achieve reductions in mercury emissions from liquid fuel-fired industrial, commercial, and institutional boilers and process heaters. Therefore, EPA identified no control technology being used in the existing population of boilers and process heaters in these subcategories that consistently achieved lower emission rates than uncontrolled levels, such that a best controlled similar source for organic HAP could be identified. However, we did find that monitoring CO is a good combustion practice that can reduce organic HAP emissions, and have included it in the new source MACT floor as described previously in this preamble. We concluded the MACT floor for new sources in this subcategory is no emissions reductions for mercury.

In light of this analysis, the EPA determined that, in general, the combination of an ESP, a packed bed scrubber, and CO monitoring forms the basis for the MACT floor level of control for new liquid fuel boilers and process heaters in this subcategory.

b. Small Units—Heat Inputs Less than or Equal to 10 MMBtu/hr. The most effective control technology identified for removing non-mercury metallic HAP used by units in this subcategory is ESP. Therefore, because there are no options reasonably available for reducing non-mercury metallic HAP emissions other than add-on control, we consider a source with an ESP to be the best controlled similar unit in this subcategory for purposes of non-mercury metallic HAP and PM emissions. The most effective control technology identified for units in this subcategory for removing acid gases, such as HCl, is wet scrubbers.

Information in the emissions database or from other source categories does not show that control technologies, such as fabric filters, ESP, or wet scrubbers, achieve reductions in mercury emissions from liquid fuel-fired industrial, commercial, and institutional boilers and process heaters. Therefore, EPA could not identify a control technology being used in the existing population of boilers and process heaters that consistently achieved lower emission rates than uncontrolled levels, such that a best controlled similar source for mercury or organic HAP could be identified. We concluded the MACT floor for new sources in this subcategory is no emissions reductions for mercury or organic HAP.

Thus, EPA determined that the combination of a fabric filter and a wet scrubber forms the basis for the MACT floor level of control for new liquid fuel boilers and process heaters in this subcategory.

The emissions test database did not contain test data for liquid fuel boilers and process heaters less than 10 MMBtu/hr heat input capacity. In order to develop emission levels for this subcategory, we decided to use information from units in the large liquid fuel subcategory. We considered this to be an appropriate methodology because although the units in this subcategory are different enough to warrant their own subcategory (*i.e.*, different designs and emissions), emissions of the specific types of HAP for which limits are being proposed (HCl and metals) are expected to be more related to the type of fuel burned and the type of control than to unit design. Consequently, we determined that emissions information from units greater than 10 MMBtu/hr heat input capacity could be used to establish MACT floor levels for this subcategory because the fuels and controls are similar. The MACT floor emission level based on PM test data from a liquid fuel unit with an ESP representing the best controlled similar unit, and incorporating operational variability, is 0.03 lb PM/MMBtu. The MACT floor emission level based on a liquid fuel unit with a wet scrubber representing the best controlled similar unit, and incorporating operational variability, is 0.0009 lb HCl/MMBtu. We are requesting comment on using emission data from another subcategory to develop emission levels for this subcategory. We are also requesting any available emissions information for this subcategory.

c. Limited Use Units—Capacity Utilizations Less than or Equal to 10 Percent. The most effective control technology identified for removing non-mercury metallic HAP used by units in this subcategory is ESP. Therefore, because there are no options reasonably available for reducing non-mercury metallic HAP emissions other than add-on control, we consider a source with an ESP to be the best controlled similar unit in this subcategory for purposes of non-mercury metallic HAP and PM emissions. The most effective control technology identified for units in this subcategory for removing acid gases, such as HCl, is wet scrubbers.

Information in the emissions database or from other source categories does not show that other control technologies,

such as fabric filters, ESP, or wet scrubbers, achieve reductions in mercury emissions from liquid fuel-fired industrial, commercial, and institutional boilers and process heaters. The EPA identified no control technology being used in the existing population of boilers and process heaters that consistently achieved lower emission rates than uncontrolled levels, such that a best controlled similar source for mercury could be identified. We concluded the MACT floor for new sources in this subcategory is no emissions reductions for mercury.

We did find that monitoring CO can reduce organic HAP emissions and is used by at least one unit in this subcategory, and have included it in the new source MACT floor as described previously in this preamble.

Therefore, based on this analysis, EPA determined that the combination of a fabric filter, a wet scrubber, and CO monitoring forms the basis for the MACT floor level of control for new liquid fuel boilers and process heaters in this subcategory.

The emissions test database did not contain test data for limited use liquid fuel boilers and process heaters. In order to develop emission levels for this subcategory, we decided to use information from units in the large liquid fuel subcategory. We considered this to be an appropriate methodology because although the units in this subcategory are different enough to warrant their own subcategory (*i.e.*, different purposes and operation), emissions of the specific HAP for which limits are being proposed (HCl and metals) are more related to the type of fuel burned and the type of control used than to unit operation. Consequently, we determined that emissions information from units greater than 10 MMBtu/hr heat input capacity could be used to establish MACT floor levels for this subcategory because the fuels and controls are similar. The MACT floor emission level based on PM test data from a liquid fuel unit with an ESP representing the best controlled similar unit, and incorporating operational variability, is 0.03 lb PM/MMBtu. The MACT floor emission level based on a liquid fuel unit with a wet scrubber representing the best controlled similar unit, and incorporating operational variability, is 0.0009 lb HCl/MMBtu. We are requesting comment on using emission data from another subcategory to develop emission levels for this subcategory. We are also requesting any available emissions information for this subcategory.

3. Gaseous Fuel Subcategories

No existing units were using control technologies that achieve consistently lower emission rates than uncontrolled sources for any of the pollutant groups of interest, except organic HAP. At least one unit in the population database in the large and limited use gaseous fuel subcategories is required to monitor CO. Therefore, the MACT floor for gaseous fuel-fired units includes a CO monitoring requirement and emission limit, as described previously in this preamble, but it does not include any emission limits for PM, metallic HAP, mercury, or inorganic HAP based on the utilization of add-on control technology.

I. How Did EPA Consider Beyond-the-Floor for New Units?

The MACT floor level of control for new units is based on the emission control that is achieved in practice by the best controlled similar source within each of the subcategories. No technologies were identified that would achieve non-mercury metals reduction greater than the new source floors for the liquid and solid subcategories or CO monitoring for the solid, liquid, and gaseous subcategories. For inorganic HAP control, we determined that packed bed scrubbers achieve higher emissions reductions than MACT floors consisting of a wet scrubber. Packed bed scrubbers are the technology basis of the MACT floor for the large unit subcategory, but wet scrubbers were the technology basis of the floors for the small unit and limited unit subcategories. Therefore, we examined the cost and emission reduction benefits of applying a packed bed scrubber as a beyond-the-floor option for new solid and liquid units within the small and limited use subcategories. The results of this analysis indicated that annualized costs would be an additional 2 million dollars per year for additional reductions of approximately three tons of HCl per year. We determined that costs were excessive for the limited emissions reductions that would be achieved. Nonair quality health, environmental impacts, and energy effects were not significant factors, because there would be little difference in the nonair quality health and environmental impacts between packed bed scrubbers and wet scrubbers. Therefore, EPA did not select this beyond-the-floor option, and the proposed new source MACT level of control for PM, metallic HAP, and inorganic HAP (HCl) is the same as the MACT floor level of control for all of the subcategories.

In reviewing potential regulatory options beyond the new source MACT floor level of control, EPA identified one existing solid fuel-fired industrial boiler that was using carbon injection technology for mercury control. However, emission data obtained from this unit indicated that it was not achieving mercury emission reduction from the uncontrolled levels. Moreover, we do not have information to otherwise show that carbon injection is effective for reducing mercury emissions from industrial, commercial, and institutional boilers and process heaters. Information in the emissions database or from other source categories does not show that other control technologies, such as fabric filters, ESP, or wet scrubbers, achieve reductions in mercury emissions from liquid fuel-fired industrial, commercial, and institutional boilers and process heaters. Therefore, carbon injection, for solid fuel units, and other control techniques, for liquid fuel units, were not evaluated as regulatory options. However, EPA requests comments on whether carbon injection and/or other control techniques should be considered as beyond-the-floor options and whether new industrial, commercial, or institutional boilers and process heaters could use carbon injection technology, or other control techniques to consistently achieve mercury emission levels that are lower than levels from similar sources without such controls. Comments should include information on emissions, current demonstrated applications, and costs.

For the solid fuel and liquid fuel subcategories, fuel switching to natural gas is a potential regulatory option beyond the new source floor level of control that would reduce mercury and metallic HAP emissions. However, based on current trends within the industry, EPA projects that the majority of new boilers and process heaters will be built to fire natural gas as opposed to solid and liquid fuels such that the overall emissions reductions associated with this option would be minimal while the total cost of fuel switching would be approximately 600 million dollars. The additional emissions reductions would be 30 tons per year of HCl, 90 tons per year of inorganic HAP and 120 tons per year of total non-mercury metallic HAP. Section III.D of this preamble provides additional rationale for not going beyond the floor to require fuel switching. For example, natural gas supplies are not available in some areas, and supplies to industrial customers can be limited during periods when natural gas demand exceeds

supply. Thus, this potential control option may be unavailable to many sources in practice. Furthermore, organic HAP may be increased by fuel switching. Limited emissions reductions in combination with the high cost of fuel switching and considerations about the availability and technical feasibility of fuel switching makes this an unreasonable regulatory option that was not considered further. Nonair quality health, environmental impacts, and energy effects were not significant factors. No beyond-the-floor options for gas-fired boilers were identified.

Based on the analysis discussed above, EPA decided to not go beyond the MACT floor level of control for new sources for MACT in the proposed rule. A detailed description of the beyond-the-floor consideration is in the memorandum ''Methodology for Estimating Cost and Emissions Impacts for Industrial, Commercial, Institutional Boilers and Process Heaters National Emission Standards for Hazardous Air Pollutants'' in the docket.

J. How Did EPA Determine Testing and Monitoring Requirements for the Proposed Rule?

The CAA requires us to develop regulations that include monitoring and testing requirements. The purpose of these requirements is to allow us to determine whether an affected source is operating in compliance with the proposed rule. The proposed monitoring and testing requirements are discussed below.

1. Testing

The proposed rule requires you to perform an initial performance test for PM (or total selected metals), mercury, and HCl if you are required to meet an emission limit. Additionally, the proposed rule requires annual performance tests to ensure on an ongoing basis that the air pollution control device is operating properly and its performance has not deteriorated. The majority of emissions tests upon which the proposed emission limits are based were conducted using approved EPA test methods.

If you conduct a performance test, you would also determine parameter operating limits during the tests. The majority of test methods that the proposed rule would require for the performance tests have been required under many other EPA standards. No applicable voluntary consensus standards were identified.

If you are required to meet an HCl emission limit and do not have a scrubber or elect to take no credit for the scrubber emissions reductions, you must record the average chlorine content level in the input fuel as an operating limit. However, if you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supply than what was burned during the initial performance test, then you must recalculate the chlorine input. If the results of recalculating the chlorine input exceeds the average chlorine level established during the initial performance test, you must conduct a new performance test to demonstrate compliance with the emission level.

We are also allowing you to record the mercury in the input fuels as an operating limit if you elect to take no credit for the control device emission reduction. However, if you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supply than what was burned during the initial performance test, then you must recalculate the mercury input. If the results of the recalculation exceed the average level established during the initial performance test, you must conduct a new performance test to demonstrate compliance with the mercury emission level.

We are also allowing you to record the total selected metals in the input fuels as an operating limit if you choose to comply with the metals emission limit instead of the PM limit. However, if you plan to burn a new fuel, a fuel from a new mixture, or a fuel from a new supply than what was burned during the initial performance test, then you must recalculate the total selected metals input. If the results of the recalculation exceed the average level established during the initial performance test, you must conduct a new performance test to demonstrate compliance with the metals emission level.

2. Continuous Monitoring

The most direct means of ensuring compliance with emission limits is the use of continuous emission monitoring systems (CEMS). We consider other options when CEMS are not available or when the impacts of including such requirements are considered unreasonable. When monitoring options other than CEMS are considered, it is often necessary for us to balance more reasonable costs against the quality or accuracy of the actual emissions monitoring data. Although monitoring of operating parameters cannot provide a direct measurement of emissions, it is often a suitable substitute for CEMS. The information provided can be used to ensure that air pollution control equipment is operating properly. Because the parameter requirements are calibrated during the initial and annual stack tests, they provide a reasonable surrogate for direct monitoring of emissions. This information reasonably assures the public that the reductions envisioned by the proposed rule are being achieved.

The EPA evaluated the cost of applying HCl CEMS to boilers and process heaters. For HCl CEM monitoring, capital costs were estimated to be $88,000 per unit and annualized costs were estimated to be $33,000 per unit. We determined the costs would make them an unreasonable monitoring option. In addition, toxic metals are not directly measurable with CEMS, and CEMS for PM have not been demonstrated in the United States for the purpose of determining compliance.

To ensure continuous compliance with the proposed emission limits and/or operating limits, the proposed rule would require continuous parameter monitoring of control devices and recordkeeping. We selected the following requirements based on reasonable cost, ease of execution, and usefulness of the resulting data to both the owners or operators and EPA for ensuring continuous compliance with the emission limits and/or operating limits.

We are proposing that certain parameters be continuously monitored for the types of control devices commonly used in the industry. These parameters include opacity monitoring except for wet scrubbers; pH, pressure drop and liquid flow-rate for wet scrubbers; and sorbent injection rate for dry scrubbers. You must also install a bag leak detection system for fabric filters. If you cannot monitor opacity for control systems with an ESP then you must monitor the secondary current and voltage or total power input for the ESP. These monitoring parameters have been used in other standards for similar industries. The values of these parameters are established during the initial or most recent performance test that demonstrates compliance. These values are your operating limits for the control device.

You would be required to set parameters based on 1-hour block averages during the compliance test, and demonstrate continuous compliance by monitoring 3-hour block average values for most parameters. We selected this averaging period to reflect operating conditions during the performance test to ensure the control system is continuously operating at the same or better level as during a performance test demonstrating compliance with the emission limits.

To demonstrate continuous compliance with the emission and operating limits, you would also need daily records of the quantity, type, and origin of each fuel burned and hours of operation of the affected source. If you are complying with the chlorine or total selected metals fuel input option, you must keep records of the calculations supporting your determination of the chlorine and total selected metals content in the fuel.

K. How Did EPA Determine Compliance Times for the Proposed Rule?

Section 112 of the CAA specifies the dates by which affected sources must comply with the emission standards. New or reconstructed units must be in compliance with the proposed rule immediately upon startup or [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER], whichever is later. Existing sources are allowed 3 years to comply with the final rule. This is the maximum period allowed by the CAA. We believe that 3 years for compliance is necessary to allow adequate time to design, install and test control systems that will be retrofitted onto existing boilers, as well as obtain permits for the use of add-on controls.

L. How Did EPA Determine the Required Records and Reports for the Proposed Rule?

You would be required to comply with the applicable requirements in the NESHAP General Provisions, subpart A of 40 CFR part 63, as described in Table 10 of the proposed subpart DDDDD. We evaluated the General Provisions requirements and included those we determined to be the minimum notification, recordkeeping, and reporting necessary to ensure compliance with, and effective enforcement of, the proposed rule.

We are also requiring that you keep daily records of the total fuel use by each affected source, subject to an emission limit or work practice standard, along with a description of the fuel, the total fuel usage amounts and units of measure, and information on the supplier and original source of the fuel. This information is necessary to ensure that the affected source is complying with the emission limits from the correct subcategory.

We are requiring additional recordkeeping if you choose to comply with the chlorine, mercury or total selected metals fuel input option. You will need to keep records of the calculations and supporting information used to develop the chlorine, mercury, or total selected metals fuel input operating limit.

M. How Does the Proposed Rule Affect Permits?

The CAA requires that sources subject to the proposed rule be operated pursuant to a permit issued under EPA-approved State operating permit program. The operating permit programs are developed under title V of the CAA and the implementing regulations under 40 CFR parts 70 and 71. If you are operating in the first 3 years of your operating permit, you will need to obtain a revised permit to incorporate the proposed rule. If you are in the last 2 years of your operating permit, you will need to incorporate the proposed rule into the next renewal of your permit.

N. What Alternative Provisions Are Being Considered?

The EPA is considering a bubbling compliance alternative for determining compliance with the non-mercury metallic HAP, HCl, mercury, and PM standards for existing sources. The bubbling compliance alternative would allow owners and operators to set non-mercury metals, mercury, HCl, and PM emissions limits for each existing boiler or process heater in the same subcategory such that if these limits are met, the total emissions from all existing boilers or process heaters in the subcategory are less than or equal to a subcategory specific bubble limit. The subcategory specific bubble limit would be the proposed emissions limits for non-mercury metallic HAP, mercury, HCl, and PM.

The bubbling compliance alternative would not be applicable to new sources and could only be used between boilers and process heaters in the same subcategory. For example, bubbling between a solid fuel-fired boiler greater than 10 million Btu/hour could only be conducted with other solid fuel-fired boilers or process heaters with heat input capacities greater than 10 million Btu/hour. Also, owners or owners of existing sources subject to the Industrial Boiler New Source Performance Standards (NSPS) (40 CFR part 60, subparts Db and Dc) would be required to continue to meet the PM emission standard of that NSPS regardless of whether they are complying with the bubbling alternative or not (because the NSPS is a separate regulatory requirement which remains in place).

Owners or operators that would choose to comply with the HAP metals, mercury, HCl, or PM standards using the bubbling compliance alternative would be required to submit HAP metals, mercury, HCl, and/or PM emissions limits to the Administrator for approval for each existing source included in the bubbling compliance alternative. Before emissions limits would be approved, the owner or operator would need to submit documentation demonstrating that if the emissions limits for each source (*e.g.*, each boiler or heater) are met, the entire group of sources within the bubbling compliance alternative would be in compliance with the subcategory-wide allowable non-mercury metallic HAP, mercury, HCl, and PM emission levels. Once approved by the Administrator, the non-mercury metallic HAP, mercury, HCl, and PM emissions levels would be incorporated into the operating permit for the source. Thereafter, the owner and operator of the facility would demonstrate compliance with the standards by demonstrating that each boiler or process heater included in the bubbling compliance alternative emits less than or equal to the approved non-mercury metallic HAP, mercury, HCl, and PM emissions limits for that source.

The EPA is considering this bubbling compliance alternative as part of the EPA's general policy of encouraging the use of flexible compliance approaches where they can be properly monitored and enforced. Emissions averaging can provide sources the flexibility to comply in the least costly manner while still maintaining regulation that is workable and enforceable. However, to implement this alternative, the final rule will need to define the affected source more broadly to include all the existing boilers and process heaters for each subcategory located at the same facility. Therefore, EPA is soliciting comments on the bubbling compliance alternative, whether EPA should specify this bubbling compliance alternative in the final rule, and whether new units added to an existing affected source should be included as part of, and applicable to, the existing source bubble limit. Comments should include information on the potential cost savings a facility could expect from implementation of the bubbling compliance provision, along with supporting documentation for this estimated cost saving.

IV. Impacts of the Proposed Rule

A. What Are the Air Impacts?

Table 2 of this preamble illustrates, for each subcategory, the emissions reductions achieved by the proposed rule (*i.e.*, the difference in emissions between a boiler or process heater controlled to the floor level of control and boilers or process heaters at the current baseline) for new and existing sources. Nationwide emissions of

selected HAP (*i.e.*, HCl, hydrogen fluoride, lead, and nickel) will be reduced by 58,500 tons per year for existing units and 73 tons per year for new units. Emissions of HCl will be reduced by 42,000 tons per year for existing units and 72 tons per year for new units. Emissions of mercury will be reduced by 1.9 tons per year for existing units and 0.006 tons per year for new units. Emissions of PM will be reduced by 565,000 tons per year for existing units and 480 tons per year for new units. Emissions of total selected non-mercury metals (*i.e.*, arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, and selenium) will be reduced by 1,100 tons per year for existing units and will be reduced by 1.4 tons per year for new units. In addition, emissions of sulfur dioxide are established to be reduced by 113,000 tons per year for existing sources and 110 tons per year for new sources. A discussion of the methodology used to estimate emissions and emissions reductions is presented in ''Estimation of Baseline Emissions and Emissions Reductions for Industrial, Commercial, and Institutional Boilers and Process Heaters'' in the docket.

TABLE 2.—SUMMARY OF EMISSIONS REDUCTIONS FOR EXISTING AND NEW SOURCES

[Tons/yr]

Source	Subcategory	HCl	PM	Non mercury metals [a]	Mercury
Existing Units	Large solid units	42,100	560,000	1,100	2
	Small solid units	0	0	0	0
	Limited use solid units	0	2,800	8	0.002
	Liquid units	0	0	0	0
	Gaseous units	0	0	0	0
New Units	Large solid units	70	31	0.01	0.006
	Small solid units	2.4	440	1.4	0.0006
	Limited use solid units	0.2	11	0.02	0.00002
	Liquid units	0	0	0	0
	Gaseous units	0	0	0	0

[a] Includes arsenic, beryllium, cadmium, chromium, lead, manganese, nickel, and selenium.

B. What Are the Water and Solid Waste Impacts?

The EPA estimated the additional water usage that would result from the MACT floor level of control to be 110 million gallons per year for existing sources and 0.6 million gallons per year for new sources. In addition to the increased water usage, an additional 3.7 million gallons per year of wastewater would be produced for existing sources and 0.6 million gallons per year for new sources. The costs of treating the additional wastewater are $18,000 for existing sources and $2,300 for new sources. These costs are accounted for in the control costs estimates.

The EPA estimated the additional solid waste that would result from the MACT floor level of control to be 102,000 tons per year for existing sources and 1 ton per year for new sources. The costs of handling the additional solid waste generated are $1.5 million for existing sources and $17,000 for new sources. These costs are also accounted for in the control costs estimates.

A discussion of the methodology used to estimate impacts is presented in ''Estimation of Impacts for Industrial, Commercial, and Institutional Boilers and Process Heaters NESHAP'' in the Docket.

C. What Are the Energy Impacts?

The EPA expects an increase of approximately 1,130 million kilowatt hours (kWh) in national annual energy usage as a result of the proposed rule. Of this amount, 1,120 million kWh would be from existing sources and 13 million kWh are estimated from new sources. The increase results from the electricity required to operate control devices installed to meet the proposed rule, such as wet scrubbers and fabric filters.

D. What Are the Control Costs?

To estimate the national cost impacts of the proposed rule for existing sources, EPA developed several model boilers and process heaters and determined the cost of control equipment for these model boilers. The EPA assigned a model boiler or heater to each existing unit in the database based on the fuel, size, design, and current controls. The analysis considered all air pollution control equipment currently in operation at existing boilers and process heaters. Model costs were then assigned to all existing units that could not otherwise meet the proposed emission limits. The resulting total national cost impact of the proposed rule is 1,790 million dollars in capital expenditures and 860 million dollars per year in total annual costs. The total capital and annual costs include costs for testing, monitoring, and recordkeeping and reporting. Table 3 of this preamble shows the capital and annual cost impacts for each subcategory. Costs include testing and monitoring costs, but not recordkeeping and reporting costs.

TABLE 3.—SUMMARY OF CAPITAL AND ANNUAL COSTS FOR NEW AND EXISTING SOURCES

Source	Subcategory	Estimated/ projected number of affected units	Annualized cost (10^6 $/yr)	Capital costs (10^6 $)
Existing Units	Large solid units	3,481	814	1,605
	Small solid units	327	0	0
	Limited use solid units	249	23	105
	Liquid units	7,251	0	0
	Gaseous units	46,892	0	0

TABLE 3.—SUMMARY OF CAPITAL AND ANNUAL COSTS FOR NEW AND EXISTING SOURCES—Continued

Source	Subcategory	Estimated/ projected number of affected units	Annualized cost (10^6 $/yr)	Capital costs (10^6 $)
New Units	Large solid units	211	10	21
	Small solid units	25	3	3
	Limited use solid units	11	1	1
	Large liquid units	90	1	3
	Small liquid units	164	0	0
	Limited use liquid units	51	0.3	2
	Gaseous units	3,463	11	51

Using Department of Energy projections on fuel expenditures, the number of additional boilers that could be potentially constructed was estimated. The resulting total national cost impact of the proposed rule in the 5th year is 58 million dollars in capital expenditures and 18.6 million dollars per year in total annual costs. Costs are mainly for testing and monitoring.

A discussion of the methodology used to estimate cost impacts is presented in ''Methodology and Results of Estimating the Cost of Complying with the Industrial, Commercial, and Institutional Boiler and Process Heater NESHAP'' in the Docket.

E. Can We Achieve the Goals of the Proposed Rule in a Less Costly Manner?

We have made every effort in developing this proposal to minimize the cost to the regulated community and allow maximum flexibility in compliance options consistent with our statutory obligations. We recognize, however, that the proposal may still require some facilities to take costly steps to further control emissions even though those emissions may not result in exposures which could pose an excess individual lifetime cancer risk greater than one in one million or which exceed thresholds determined to provide an ample margin of safety for protecting public health and the environment from the effects of hazardous air pollutants. We are, therefore, specifically soliciting comment on whether there are further ways to structure the proposed rule to focus on the facilities which pose significant risks and avoid the imposition of high costs on facilities that pose little risk to public health and the environment.

Representatives of the plywood and composite wood products industry provided EPA with descriptions of three mechanisms that they believed could be used to implement more cost-effective reductions in risk. The docket for today's proposed rule contains white papers prepared by industry that outline their proposed approaches. These approaches could be effective in focusing regulatory controls on facilities that pose significant risks and avoiding the imposition of high costs on facilities that pose little risk to public health or the environment, and we are seeking public comment on the utility of each of these approaches with respect to this rule.

One of the approaches, an applicability cutoff for threshold pollutants, would be implemented under the authority of CAA section 112(d)(4); the second approach, subcategorization and delisting, would be implemented under the authority of CAA sections 112(c)(1) and 112(c)(9); and, the third approach, would involve the use of a concentration-based applicability threshold. We are seeking comment on whether these approaches are legally justified and, if so, we ask for information that could be used to support such approaches.

The maximum achievable control technology, or MACT, program outlined in CAA section 112(d) is intended to reduce emissions of HAP through the application of MACT to major sources of toxic air pollutants. Section 112(c)(9) of the CAA is intended to allow EPA to avoid setting MACT standards for categories or subcategories of sources that pose less than a specified level of risk to public health and the environment. The EPA requests comment on whether the proposals described here appropriately rely on these provisions of CAA section 112. While both approaches focus on assessing the inhalation exposures of HAP emitted by a source, EPA specifically requests comment on the appropriateness and necessity of extending these approaches to account for non-inhalation exposures or to account for adverse environmental impacts. In addition to the specific requests for comment noted in this section, we are also interested in any information or comment concerning technical limitations, environmental and cost impacts, compliance assurance, legal rationale, and implementation relevant to the identified approaches. We also request comment on appropriate practicable and verifiable methods to ensure that sources' emissions remain below levels that protect public health and the environment. We will evaluate all comments before determining whether either of the three approaches will be included in the final rule.

1. Industry Emissions and Potential Health Effects

To estimate the potential baseline risks posed by the Industrial Boiler and Process Heater source category, EPA performed a crude risk analysis of the source category that focused only on cancer risks. The results of the analysis are based on approaches for estimating cancer incidence that carry significant assumptions, uncertainties, and limitations. Based on the assessment, if the proposed rule is implemented at all facilities in the source category, cancer incidence in the U.S. may be reduced by as many as tens of cases per year. Due to the uncertainties associated with the analysis, this analysis should be regarded as one perspective on the estimate of annual cancer incidence reduction; the true risk reductions are unknown. (Details of this assessment are available in two memoranda in the docket: Memorandum on ''Method for Approximate (''Top Down'') Estimates of Aggregate Cancer Risk Associated with Two Maximum Achievable Control Technology (MACT) Source Categories: Reciprocating Internal Combustion Engines (RICE) and Industrial/ Commercial/Institutional Boilers'' and Memorandum on ''Additional Perspectives on (''Top Down'') Estimates of Aggregate Cancer Risk Associated with Industrial/Commercial/ Institutional Boilers''.)

2. Applicability Cutoffs for Threshold Pollutants Under Section 112(d)(4) of the CAA

The first approach is an applicability cutoff for threshold pollutants that is based on EPA's authority under CAA section 112(d)(4) to establish standards for HAP which are threshold pollutants. A threshold pollutant is one for which there is a concentration or dose below which adverse effects are not expected to occur over a lifetime of exposure. For such pollutants, CAA section 112(d)(4) allows EPA to consider the threshold level, with an ample margin of safety, when establishing emission standards. Specifically, CAA section 112(d)(4) allows EPA to establish emission standards that are not based upon the maximum achievable control technology specified under CAA section 112(d)(2) for pollutants for which a health threshold has been established. Such standards may be less stringent than MACT. Historically, EPA has interpreted CAA section 112(d)(4) to allow categories of sources that emit only threshold pollutants to avoid further regulation if those emissions result in ambient levels that do not exceed the threshold, with an ample margin of safety.[2]

A different interpretation would allow us to exempt individual facilities within a source category that meet the CAA section 112(d)(4) requirements. There are three potential scenarios under this interpretation of the CAA section 112(d)(4) provision. One scenario would allow an exemption for individual facilities that emit only threshold pollutants and can demonstrate that their emissions of threshold pollutants would not result in air concentrations above the threshold levels, with an ample margin of safety, even if the category is otherwise subject to MACT. A second scenario would allow the CAA section 112(d)(4) provision to be applied to both threshold and nonthreshold pollutants, using the one in a million cancer risk level for decision making for nonthreshold pollutants.

A third scenario would allow a CAA section 112(d)(4) exemption at a facility that emits both threshold and nonthreshold pollutants. For those emission points where only threshold pollutants are emitted and where emissions of the threshold pollutants would not result in air concentrations above the threshold levels, with an ample margin of safety, those emission points could be exempt from the MACT standard. The MACT standard would still apply to nonthreshold emissions from other emission points at the source. For this third scenario, emission points that emit a combination of threshold and nonthreshold pollutants that are co-controlled by MACT would still be subject to the MACT level of control. However, any threshold HAP eligible for exemption under CAA section 112(d)(4) that are controlled by control devices different from those controlling non-threshold HAP would be able to use the exemption, and the facility would still be subject to the parts of the standard that control nonthreshold pollutants or that control both threshold and nonthreshold pollutants.

a. Estimation of hazard quotients and hazard indices. Under the CAA section 112(d)(4) approach, EPA would have to determine that emissions of each of the threshold pollutants emitted by industrial boiler and process heater sources at the facility do not result in exposures which exceed the threshold levels, with an ample margin of safety. The common approach for evaluating the potential hazard of a threshold air pollutant is to calculate a hazard quotient by dividing the pollutant's inhalation exposure concentration (often assumed to be equivalent to its estimated concentration in air at a location where people could be exposed) by the pollutant's inhalation Reference Concentration (RfC). An RfC is defined as an estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure that, over a lifetime, likely would not result in the occurrence of adverse health effects in humans, including sensitive individuals. The EPA typically establishes an RfC by applying uncertainty factors to the critical toxic effect derived from the lowest- or no-observed-adverse-effect level of a pollutant.[3] A hazard quotient less than one means that the exposure concentration of the pollutant is less than the RfC, and, therefore, presumed to be without appreciable risk of adverse health effects. A hazard quotient greater than one means that the exposure concentration of the pollutant is greater than the RfC. Further, EPA guidance for assessing exposures to mixtures of threshold pollutants recommends calculating a hazard index (HI) by summing the individual hazard quotients for those pollutants in the mixture that affect the same target organ or system by the same mechanism.[4] Hazard index values would be interpreted similarly to hazard quotients; values below one would generally be considered to be without appreciable risk of adverse health effects, and values above one would generally be cause for concern.

For the determinations discussed herein, EPA would generally plan to use RfC values contained in EPA's toxicology database, the Integrated Risk Information System (IRIS). When a pollutant does not have an approved RfC in IRIS, or when a pollutant is a carcinogen, EPA would have to determine whether a threshold exists based upon the availability of specific data on the pollutant's mode or mechanism of action, potentially using a health threshold value from an alternative source, such as the Agency for Toxic Substances and Disease Registry (ATSDR) or the California Environmental Protection Agency (CalEPA). Table 4 of this preamble provides RfC, as well as unit risk estimates, for the HAP emitted by facilities in the industrial boiler and process heater source category. A unit risk estimate is defined as the upper-bound excess lifetime cancer risk estimated to result from continuous exposure to an agent at a concentration of 1 microgram per cubic meter (µg/m3) in air.

[2] *See* 63 FR 18754, 18765–66 (April 15, 1998) (Pulp and Paper Combustion Sources Proposal NESHAP).

[3] ''Methods for Derivation of Inhalation Reference Concentrations and Applications of Inhalation Dosimetry.'' EPA–600/8–90–066F, Office of Research and Development, USEPA, October 1994.

[4] ''Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures. Risk Assessment Forum Technical Panel,'' EPA/630/R–00/002. USEPA, August 2000. *http://www.epa.gov/nceawww1/pdfs/chem mix/chem mix 08 2001.pdf.*

TABLE 4.—DOSE-RESPONSE ASSESSMENT VALUES FOR HAP REPORTED EMITTED BY THE INDUSTRIAL BOILER AND PROCESS HEATER SOURCE CATEGORY

Chemical name	CAS No.	Reference concentration [a] (mg/m^3)	Unit risk estimate [b] ($1/(\mu g/m^3)$)
Acetaldehyde	75–07–0	9.0E–IRIS 03	2.2E–06 IRIS
Acrolein	107–02–8	2.0E–IRIS 05	
Arsenic compounds	7440–38–2	3.0E–CAL 05	4.3E–03 IRIS
Benzene	71–43–2	6.0E–CAL 02	7.8E–06 IRIS
Beryllium compounds	7440–41–7	2.0E–IRIS 05	2.4E–03 IRIS
Cadmium compounds	7440–43–9	2.0E–CAL 05	1.8E–03 IRIS
Chromium (VI) compounds	18540–29–9	1.0E–IRIS 04	1.2E–02 IRIS
Dibenzofuran	132–64–9		
Dibutylphthalate	84–74–2		
p-Dichlorobenzene	106–46–7	8.0E–IRIS 01	1.1E–05 CAL
Ethyl benzene	100–41–4	1.0E+0 IRIS 0	
Formaldehyde	50–00–0	9.8E–ATSDR 03	1.3E–05 IRIS
Hydrochloric acid	7647–01–0	2.0E–IRIS 02	
Hydrogen fluoride	7664–39–3	3.0E–P–CAL 02	
Lead compounds	7439–92–1	1.5E–EPA 03 ORD	1.2E–05 CAL
Manganese compounds	7439–96–5	5.0E–IRIS 05	
Mercury compounds	HG_CMPDS	9.0E–CAL 05	
Methyl chloroform	71–55–6	1.0E+0 CAL 0	
Methyl ethyl ketone	78–93–3	1.0E+0 IRIS 0	
Methylene chloride	75–09–2	1.0E+0 ATSDR 0	4.7E–07 IRIS
Nickel compounds	7440–02–0	2.0E–ATSDR 04	
Nickel subsulfide	12035–72–2		4.8E–04 IRIS
PAHs (shown below as 7-PAH)			
Benzo (a) anthracene	56–55–3		1.1E–04 CAL
Benzo (b) fluoranthene	205–99–2		1.1E–04 CAL
Benzo (k) fluoranthene	207–08–9		1.1E–04 CAL
Benzo (a) pyrene	50–32–8		1.1E–03 CAL
Chrysene	218–01–9		1.1E–05 CAL
Dibenz (a,h) anthracene	53–70–3		1.2E–03 CAL
Indeno (1,2,3-cd) pyrene	193–39–5		1.4E–04 CAL
Phosphorus [c]			
2,3,7,8-Tetrachlorodibenzo-p-dioxin	1746–01–6	4.0E–CAL 08	3.3E+01 EPA ORD
Toluene	108–88–3	4.0E–IRIS 01	
m-Xylene [c]	108–38–3		
o-Xylene [c]	95–47–6		
Xylenes (mixed)	1330–20–7	4.3E–ATSDR 01	

[a] Reference Concentration: An estimate (with uncertainty spanning perhaps an order of magnitude) of a continuous inhalation exposure to the human population (including sensitive subgroups which include children, asthmatics and the elderly) that is likely to be without an appreciable risk of deleterious effects during a lifetime. It can be derived from various types of human or animal data, with uncertainty factors generally applied to reflect limitations of the data used.

[b] Unit Risk Estimate: The upper-bound excess lifetime cancer risk estimated to result from continuous exposure to an agent at a concentration of 1 $\mu g/m^3$ in air. The interpretation of the Unit Risk Estimate would be as follows: if the Unit Risk Estimate = $1.5 \times 10–6$ per $\mu g/m^3$, 1.5 excess tumors are expected to develop per 1,000,000 people if exposed daily for a lifetime to 1 μg of the chemical in 1 cubic meter of air. Unit Risk Estimates are considered upper bound estimates, meaning they represent a plausible upper limit to the true value. (Note that this is usually not a true statistical confidence limit.) The true risk is likely to be less, but could be greater.

[c] No dose-response assessment is available.

Sources:

IRIS = EPA Integrated Risk Information System (*http://www.epa.gov/iris/subst/index.html*).

ATSDR = U.S. Agency for Toxic Substances and Disease Registry (*http://www.atsdr.cdc.gov/mrls.html*).

CAL = California Office of Environmental Health Hazard Assessment (*http://www.oehha.ca.gov/air/hot_spots/index.html*).

To establish an applicability cutoff under CAA section 112(d)(4), EPA would need to define ambient air exposure concentration limits for any threshold pollutants involved. There are several factors to consider when establishing such concentrations. First, we would need to ensure that the concentrations that would be established would protect public health with an ample margin of safety. As discussed above, the approach EPA commonly uses when evaluating the potential hazard of a threshold air pollutant is to calculate the pollutant's hazard quotient, which is the exposure concentration divided by the RfC.

EPA's ''Supplementary Guidance for Conducting Health Risk Assessment of Chemical Mixtures'' suggests that the noncancer health effects associated with a mixture of pollutants ideally are assessed by considering the pollutants' common mechanisms of toxicity. The guidance also suggests, however, that when exposures to mixtures of pollutants are being evaluated, the risk assessor may calculate a HI. The recommended method is to calculate multiple hazard indices for each exposure route of interest, and for a single specific toxic effect or toxicity to a single target organ. The default approach recommended by the guidance is to sum the hazard quotients for those pollutants that induce the same toxic effect or affect the same target organ. A mixture is then assessed by several HI, each representing one toxic effect or target organ. The guidance notes that the pollutants included in the HI calculation are any pollutants that show the effect being assessed, regardless of the critical effect upon which the RfC is based. The guidance cautions that if the

target organ or toxic effect for which the HI is calculated is different from the RfC's critical effect, then the RfC for that chemical will be an overestimate, that is, the resultant HI potentially may be overprotective. Conversely, since the calculation of an HI does not account for the fact that the potency of a mixture of HAP can be more potent than the sum of the individual HAP potencies, an HI may potentially be underprotective in some situations.

b. *Options for establishing a hazard index limit.* One consideration in establishing a hazard index limit is whether the analysis considers the total ambient air concentrations of all the emitted HAP to which the public is exposed.[5] There are at least several options for establishing a hazard index limit for the CAA section 112(d)(4) analysis that reflect, to varying degrees, public exposure.

One option is to allow the hazard index posed by all threshold HAP emitted from sources at the facility to be no greater than one. This approach is protective if no additional threshold HAP exposures would be anticipated from other sources in the vicinity of the facility or through other routes of exposure (*e.g.*, through ingestion).

A second option is to adopt a default percentage approach, whereby the hazard index limit of the HAP emitted by the facility is set at some percentage of one (*e.g.*, 20 percent or 0.2). This approach recognizes the fact that the facility in question is only one of many sources of threshold HAP to which people are typically exposed every day. Because noncancer risk assessment is predicated on total exposure or dose, and because risk assessments focus only on an individual source, establishing a hazard index limit of 0.2 would account for an assumption that 20 percent of an individual's total exposure is from that individual source. For the purposes of this discussion, we will call all sources of HAP, other than the facility in question, background sources. If the facility is allowed to emit HAP such that its own impacts could result in HI values of one, total exposures to threshold HAP in the vicinity of the facility could be substantially greater than one due to background sources, and this would not be protective of public health, since only HI values below one are considered to be without appreciable risk of adverse health effects. Thus, setting the hazard index limit for the facility at some default percentage of one will provide a buffer which would help to ensure that total exposures to threshold HAP near the facility (*i.e.*, in combination with exposures due to background sources) will generally not exceed one, and can generally be considered to be without appreciable risk of adverse health effects.

The EPA requests comment on using the default percentage approach and on setting the default hazard index limit at 0.2. The EPA is also requesting comment on whether an alternative HI limit, in some multiple of one would be a more appropriate applicability cutoff.

A third option is to use available data (from scientific literature or EPA studies, for example) to determine background concentrations of HAP, possibly on a national or regional basis. These data would be used to estimate the exposures to HAP from non-industrial boiler and process heater sources in the vicinity of an individual facility. For example, the EPA's National-scale Air Toxics Assessment (NATA)[6] and ATSDR's Toxicological Profiles[7] contain information about background concentrations of some HAP in the atmosphere and other media. The combined exposures from these sources and from other sources (as determined from the literature or studies) would then not be allowed to exceed a hazard index limit of one. The EPA requests comment on the appropriateness of setting the hazard index limit at one for such an analysis.

A fourth option is to allow facilities to estimate or measure their own facility-specific background HAP concentrations for use in their analysis. With regard to the third and fourth options, the EPA requests comment on how these analyses could be structured. Specifically, EPA requests comment on how the analyses should take into account background exposure levels from air, water, food and soil encountered by the individuals exposed to emissions from industrial boilers and process heaters. In addition, we request comment on how such analyses should account for potential increases in exposures due to the use of new HAP or the increased use of a previously emitted HAP, or the effect of other nearby sources that release HAP.

EPA requests comment on the feasibility and scientific validity of each of these or other approaches. Finally, EPA requests comment on how we should implement the CAA section 112(d)(4) applicability cutoffs, including appropriate mechanisms for applying cutoffs to individual facilities. For example, would the title V permit process provide an appropriate mechanism?

c. *Tiered analytical approach for predicting exposure.* Establishing that a facility meets the cutoffs established under CAA section 112(d)(4) will necessarily involve combining estimates of pollutant emissions with air dispersion modeling to predict exposures. The EPA envisions that we would promote a tiered analytical approach for these determinations. A tiered analysis involves making successive refinements in modeling methodologies and input data to derive successively less conservative, more realistic estimates of pollutant concentrations in air and estimates of risk.

As a first tier of analysis, EPA could develop a series of simple look-up tables based on the results of air dispersion modeling conducted using conservative input assumptions. By specifying a limited number of input parameters, such as stack height, distance to property line, and emission rate, a facility could use these look-up tables to determine easily whether the emissions from their sources might cause a hazard index limit to be exceeded.

A facility that does not pass this initial conservative screening analysis could implement increasingly more site-specific but more resource-intensive tiers of analysis using EPA-approved modeling procedures, in an attempt to demonstrate that exposure to emissions from the facility does not exceed the hazard index limit. The EPA's guidance could provide the basis for conducting such a tiered analysis.[8]

The EPA requests comment on methods for constructing and implementing a tiered analytical approach for determining applicability of the CAA section 112(d)(4) criterion to specific industrial boiler and process heater sources. It is also possible that ambient monitoring data could be used to supplement or supplant the tiered modeling approach described above. It is envisioned that the appropriate monitoring to support such a determination could be extensive. The EPA requests comment on the appropriate use of monitoring in the determinations described above.

d. Accounting for dose-response relationships. In the past, EPA routinely treated carcinogens as nonthreshold pollutants. The EPA recognizes that

[5] Senate Debate on Conference Report (October 27, 1990), reprinted in ''A Legislative History of the Clean Air Act Amendments of 1990,'' Comm. Print S. Prt. 103–38 (1993) (''Legis. Hist.'') at 868.

[6] *See http://www.epa.gov/ttn/atw/nata.*

[7] *See http://www.atsdr.cdc.gov/toxpro2.html.*

[8] ''A Tiered Modeling Approach for Assessing the Risks due to Sources of Hazardous Air Pollutants.'' EPA–450/4–92–001. David E. Guinnup, Office of Air Quality Planning and Standards, USEPA, March 1992.

advances in risk assessment science and policy may affect the way EPA differentiates between threshold and nonthreshold HAP. The EPA's draft Guidelines for Carcinogen Risk Assessment [9] suggest that carcinogens be assigned non-linear dose-response relationships where data warrant. Moreover, it is possible that dose-response curves for some pollutants may reach zero risk at a dose greater than zero, creating a threshold for carcinogenic effects. It is possible that future evaluations of the carcinogens emitted by this source category would determine that one or more of the carcinogens in the category is a threshold carcinogen or is a carcinogen that exhibits a non-linear dose-response relationship but does not have a threshold.

The dose-response assessments for formaldehyde and acetaldehyde are currently undergoing revision by the EPA. As part of this revision effort, EPA is evaluating formaldehyde and acetaldehyde as potential non-linear carcinogens. The revised dose-response assessments will be subject to review by the EPA Science Advisory Board, followed by full consensus review, before adoption into the EPA Integrated Risk Information System. At this time, EPA estimates that the consensus review will be completed by the end of 2003. The revision of the dose-response assessments could affect the potency factors of these HAP, as well as their status as threshold or nonthreshold pollutants. At this time, the outcome is not known. In addition to the current reassessment by EPA, there have been several reassessments of the toxicity and carcinogenicity of formaldehyde in recent years, including work by the World Health Organization and the Canadian Ministry of Health.

The EPA requests comment on how we should consider the state of the science as it relates to the treatment of threshold pollutants when making determinations under CAA section 112(d)(4). In addition, EPA requests comment on whether there is a level of emissions of a nonthreshold carcinogenic HAP (*e.g.*, benzene, methylene chloride) at which it would be appropriate to allow a facility to use the approaches discussed in this section.

If the CAA section 112(d)(4) approach were adopted, the proposed rulemaking would likely indicate that the requirements of the rule do not apply to any source that demonstrates, based on a tiered approach that includes EPA-approved modeling of the affected source's emissions, that the anticipated HAP exposures do not exceed the specified hazard index limit.

3. Applicability Cutoffs From Hydrogen Chloride Controls Under CAA Section 112(d)(4) of the CAA

This approach is an applicability cutoff for the threshold pollutant hydrogen chloride that is based on EPA's authority under CAA section 112(d)(4). Industry's suggested approach interprets this provision to allow EPA to exempt, from the hydrogen chloride controls, individual facilities that can demonstrate that their emissions of hydrogen chloride will not result in air concentrations above the inhalation reference concentration for hydrogen chloride, even if the category is otherwise subject to MACT.

If this approach were adopted, the proposed rulemaking would likely indicate that the requirements of the rule pertaining to hydrochloric acid do not apply to any source that demonstrates, based on EPA-approved modeling of the affected source's emissions, that the anticipated hydrochloric acid exposures do not exceed the inhalation reference concentration for hydrochloric acid.

4. Subcategory Delisting Under Section 112(c)(9)(B) of the CAA

The EPA is authorized to establish categories and subcategories of sources, as appropriate, pursuant to CAA section 112(c)(1), in order to facilitate the development of MACT standards consistent with section 112 of the CAA. Further, CAA section 112(c)(9)(B) allows EPA to delete a category (or subcategory) from the list of major sources for which MACT standards are to be developed when the following can be demonstrated: (1) In the case of carcinogenic pollutants, that ''no source in the category * * * emits (carcinogenic) air pollutants in quantities which may cause a lifetime risk of cancer greater than one in one million to the individual in the population who is most exposed to emissions of such pollutants from the source''; (2) in the case of pollutants that cause adverse noncancer health effects, that ''emissions from no source in the category or subcategory * * * exceed a level which is adequate to protect public health with an ample margin of safety''; and (3) in the case of pollutants that cause adverse environmental effects, that ''no adverse environmental effect will result from emissions from any source.''

Given these authorities and the suggestions from the white paper prepared by industry representatives (see docket number OAR–2002–0058), EPA is considering whether it would be possible to establish a subcategory of facilities within the larger industrial boiler and process heater source category that would meet the risk-based criteria for delisting. Such criteria would likely include the same requirements as described previously for the second scenario under the CAA section 112(d)(4) approach, whereby a facility would be in the low-risk subcategory if its emissions of threshold pollutants do not result in exposures which exceed the HI limits and if its emissions of nonthreshold pollutants do not result in exposures which exceed a cancer risk level of 10^{-6}. The EPA requests comment on what an appropriate HI limit would be for a determination that a facility be included in the low-risk subcategory.

Since each facility in such a subcategory would be a low-risk facility (*i.e.*, if each met these criteria), the subcategory could be delisted in accordance with CAA section 112(c)(9), thereby limiting the costs and impacts of the proposed rule to only those facilities that do not qualify for subcategorization and delisting.

Facilities seeking to be included in the delisted subcategory would be responsible for providing all data required to determine whether they are eligible for inclusion. Facilities that could not demonstrate that they are eligible to be included in the low-risk subcategory would be subject to MACT and possible future residual risk standards. The EPA solicits comment on implementing a risk-based approach for establishing subcategories of industrial boiler and process heater facilities.

Establishing that a facility qualifies for the low-risk subcategory under CAA section 112(c)(9) will necessarily involve combining estimates of pollutant emissions with air dispersion modeling to predict exposures. The EPA envisions that we would employ the same tiered analytical approach described earlier in the CAA section 112(d)(4) discussion for these determinations.

One concern that EPA has with respect to this CAA section 112(c)(9) approach is the effect that it could have on the MACT floors. If many of the facilities in the low-risk subcategory are well-controlled, that could make the MACT floor less stringent for the remaining facilities. One approach that has been suggested to mitigate this effect would be to establish the MACT floor now based on controls in place for the

[9] ''Draft Revised Guidelines for Carcinogen Risk Assessment.'' NCEA–F–0644. USEPA, Risk Assessment Forum, July 1999. pp 3–9ff. *http://www.epa.gov/ncea/raf/pdfs/cancer_gls.pdf.*

entire category and to allow facilities to become part of the low-risk subcategory in the future, after the MACT based standards are established. This would allow low risk facilities to use the CAA section 112(c)(9) exemption without affecting the MACT floor calculation. The EPA requests comment on this suggested approach.

Another approach under CAA section 112(c)(9) would be to define a subcategory of facilities within the industrial boiler and process heater source category based upon technological differences, such as differences in production rate, emission vent flow-rates, overall facility size, emissions characteristics, processes, or air pollution control device viability. The EPA requests comment on how we might establish industrial boiler and process heater subcategories based on these, or other, source characteristics. If it could then be determined that each source in this technologically-defined subcategory presents a low risk to the surrounding community, the subcategory could then be delisted in accordance with CAA section 112(c)(9). The EPA requests comment on the concept of identifying technologically-based subcategories that may include only low-risk facilities within this source category.

If this CAA section 112(c)(9) approach were adopted, the rulemaking would likely indicate that the rule does not apply to any source that demonstrates that it belongs in a subcategory which has been delisted under CAA section 112(c)(9).

F. What Are the Economic Impacts?

The economic impact analysis shows that the expected price increase for output in the 40 affected industries would be no more than 0.04 percent as a result of the proposed rule for industrial boilers and process heaters. The expected change in production of affected output is a reduction of only 0.03 percent or less in the same industries. In addition, impacts to affected energy markets show that prices of petroleum, natural gas, electricity and coal should increase by no more than 0.05 percent as a result of implementation of the proposed rule, and output of these types of energy should decrease by no more than 0.01 percent. Therefore, it is likely that there is no adverse impact expected to occur for those industries that produce output affected by the proposed rule, such as lumber and wood products, chemical manufacturers, petroleum refining, and furniture manufacturing.

G. What Are the Social Costs and Benefits of the Proposed Rule?

Our assessment of costs and benefits of the proposed rule is detailed in the ''Regulatory Impact Analysis for the Proposed Industrial, Commercial, and Institutional Boilers and Process Heaters MACT.'' The Regulatory Impact Analysis (RIA) is located in the Docket.

It is estimated that 3 years after implementation of the proposed requirements, HAP would be reduced by 58,500 tons/yr (53,200 megagrams per year (Mg/yr)) due to reductions in hydrochloric acid, arsenic, mercury, hydrofluoric acid, and several other HAP from existing affected emission sources. Of these reductions, 42,000 tons/yr (38,200 Mg/yr) are of hydrochloric acid. In addition to these reductions, there are 73 tons/yr (66 Mg/yr) of HAP reductions expected from new sources. Of these reductions, virtually all of them are of hydrochloric acid. The health effects associated with these HAP are discussed earlier in this preamble. While it is beneficial to society to reduce these HAP, we are unable to quantify and provide a monetized estimate of the benefits at this time.

Despite our inability to quantify and provide monetized benefit estimates from HAP reductions, it is possible to derive rough estimates for one of the more important benefit categories, *i.e.*, the potential number of cancer cases avoided and cancer risk reduced as a result of the imposition of the MACT level of control on this source category. Our analysis suggests that imposition of the MACT level of control would reduce cancer cases by possibly tens of cases per year, on average, starting some years after implementation of the standard. This risk reduction estimate is uncertain and should be regarded as an extremely rough estimate, and should be viewed in the context of the full spectrum of unquantified noncancer effects associated with the HAP reductions. Noncancer effects associated with the HAP are presented earlier in this preamble.

The control technologies used to reduce the level of HAP emitted from affected sources are also expected to reduce emissions of PM ($PM_{10,}$ $PM_{2.5}$), and sulfur dioxide (SO_2). It is estimated that PM_{10} emissions reductions total approximately 562,000 tons/yr (510,000 Mg/yr), $PM_{2.5}$ emissions reductions total approximately 159,000 tons/yr (145,000 Mg/yr), and SO_2 emissions reductions total approximately 102,670 Mg/yr (113,000 tons/yr). These estimated reductions occur from existing sources in operation 3 years after the implementation of the requirements of the proposed rule and are expected to continue throughout the life of the sources.

Human health effects associated with exposure to PM_{10} and $PM_{2.5}$ include premature mortality (short-term exposure to PM_{10} and long-term exposure to $PM_{2.5}$), chronic bronchitis, additional hospital admissions from respiratory and cardiovascular causes, acute respiratory symptoms, and other effects. Welfare effects associated with PM_{10} and $PM_{2.5}$ emissions include impaired recreational and residential visibility, household soiling, and materials damage. As SO_2 emissions transform into PM, they can lead to the same health and welfare effects listed above.

For PM_{10} and $PM_{2.5}$, we did provide a monetary estimate for the benefits associated with the reduction of the emissions, and we have conducted several analyses recently that estimate the monetized benefits of PM reductions, including: the RIA of the PM/Ozone national ambient air quality standards (NAAQS) (1997), the Nitrogen Oxide (NO_X) State Implementation Plan (SIP) Call (1998), the CAA section 126 RIA (1999), a study conducted for section 812(b) of the CAA (1999), the Tier 2/Gasoline Sulfur Standards (1999), and the Heavy Duty Engine/Diesel Fuel Standards (2000).

On September 26, 2002, the National Academy of Sciences (NAS) released a report on its review of the Agency's methodology for analyzing the health benefits of measures taken to reduce air pollution. The report focused on EPA's approach for estimating the health benefits of regulations designed to reduce concentrations of airborne particulate matter (PM).

In its report, the NAS said that EPA has generally used a reasonable framework for analyzing the health benefits of PM-control measures. It recommended, however, that the Agency take a number of steps to improve its benefits analysis. In particular, the NAS stated that the Agency should:

—Include benefits estimates for a range of regulatory options;
—Estimate benefits for intervals, such as every 5 years, rather than a single year;
—Clearly state the projected baseline statistics used in estimating health benefits, including those for air emissions, air quality, and health outcomes;
—Examine whether implementation of proposed regulations might cause unintended impacts on human health or the environment;

—When appropriate, use data from non-U.S. studies to broaden age ranges to which current estimates apply and to include more types of relevant health outcomes; and

—Begin to move the assessment of uncertainties from its ancillary analyses into its primary analyses by conducting probabilistic, multiple-source uncertainty analyses. This assessment should be based on available data and expert judgment.

Although the NAS made a number of recommendations for improvement in EPA's approach, it found that the studies selected by EPA for use in its benefits analysis were generally reasonable choices. In particular, the NAS agreed with EPA's decision to use cohort studies to derive benefits estimates. It also concluded that the Agency's selection of the American Cancer Society (ACS) study for the evaluation of PM-related premature mortality was reasonable, although it noted the publication of new cohort studies that should be evaluated by the Agency.

Several of the NAS recommendations addressed the issue of uncertainty and how the Agency can better analyze and communicate the uncertainties associated with its benefits assessments. In particular, the Committee expressed concern about the Agency's reliance on a single value from its analysis and suggested that EPA develop a probabilistic approach for analyzing the health benefits of proposed regulatory actions. The Agency agrees with this suggestion and is working to develop such an approach for use in future rulemakings.

In this benefits analysis for the proposed rule, the Agency has used an interim approach that shows the impact of several important alternative assumptions about the estimation and valuation of reductions in premature mortality and chronic bronchitis. This approach, which was developed in the context of the Agency's Clear Skies analysis, provides an alternative estimate of health benefits using the time series studies in place of cohort studies, as well as alternative valuation methods for mortality and chronic bronchitis risk reductions.

For the proposed rule, we conducted an air quality assessment to determine the change in ambient concentrations of PM_{10} and $PM_{2.5}$ that result from reductions of PM and SO_2 at existing affected facilities. Our air quality analysis was conducted using the source-receptor (S–R) matrix model, a model that provides changes in PM_{10} and $PM_{2.5}$ concentrations based on changes in PM and/or PM precursor emissions. Unfortunately, our data is not able to define the exact location of the reductions for every affected boiler and process heater. The air quality analysis was conducted for emissions reductions from those emissions sources that have a known link to a specific control device, which represents approximately 50 percent of the total emissions reductions mentioned above. Using this subset of information, we utilized the S–R matrix to determined the air quality change nationwide. The results of the air quality assessment served as input to a model that estimates the total monetary value of benefits of the health effects listed above. Total benefits associated with this portion of the analysis are $8.2 billion in the year 2005 (presented in 1999 dollars).

For those emissions reductions from affected sources that do not have a known link to a specific control device, the results of the air quality analysis serve as a reasonable approximation of air quality changes to transfer to the remaining emissions reductions of the proposed rule. Because there is not a reasonable way to apportion the total benefits of the combined impact of the PM and SO_2 reductions from the air quality and benefit analyses completed above, we performed two additional S–R matrix analyses. One analysis was performed to evaluate the impact on air quality of the PM reductions alone (holding SO_2 unchanged), and one to evaluate the impact on air quality from the SO_2 reductions alone (holding PM unchanged). With independent PM and SO_2 air quality assessments, we can determine the total benefit associated with each component of total pollutant reductions. The total benefit associated with the PM and SO_2 reductions with unspecified location are $7.9 billion.

Every benefit-cost analysis examining the potential effects of a change in environmental protection requirements is limited to some extent by data gaps, limitations in model capabilities (such as geographic coverage), and uncertainties in the underlying scientific and economic studies used to configure the benefit and cost models. Deficiencies in the scientific literature often result in the inability to estimate changes in health and environmental effects, such as potential increases in premature mortality associated with increased exposure to carbon monoxide. Deficiencies in the economics literature often result in the inability to assign economic values even to those health and environmental outcomes which can be quantified. While these general uncertainties in the underlying scientific and economics literatures are discussed in detail in the RIA and its supporting documents and references, the key uncertainties which have a bearing on the results of the benefit-cost analysis of today's action are the following:

1. The exclusion of potentially significant benefit categories (*e.g.*, health and ecological benefits of reduction in hazardous air pollutants emissions);

2. Errors in measurement and projection for variables such as population growth;

3. Uncertainties in the estimation of future year emissions inventories and air quality;

4. Uncertainties associated with the extrapolation of air quality monitoring data to some unmonitored areas required to better capture the effects of the standards on the affected population;

5. Variability in the estimated relationships of health and welfare effects to changes in pollutant concentrations; and

6. Uncertainties associated with the benefit transfer approach.

Despite these uncertainties, we believe the benefit-cost analysis provides a reasonable indication of the expected economic benefits of the industrial boilers and process heaters MACT under two different sets of assumptions.

We have used two approaches (base and alternative estimates) to provide benefits in health effects and in monetary terms. They differ in the method used to estimate and value reduced incidences of mortality and chronic bronchitis, which is explained in detail in the RIA. While there is a substantial difference in the specific estimates, both approaches show that the industrial boilers and process heaters MACT may provide benefits to public health, whether expressed as health improvements or as economic benefits. These include prolonging lives, reducing cases of chronic bronchitis and hospital admissions, and reducing thousands of cases in other indicators of adverse health effects, such as work loss days, restricted activity days, and days with asthma attacks. In addition, there are a number of health and environmental effects which we were unable to quantify or monetize. These effects, denoted by ''B'' are additive to the both the base and alternative estimates of benefits. Results also reflect the use of two different discount rates for the valuation of reduced incidences of mortality; a 3 percent rate which is recommended by EPA's Guidelines for Preparing Economic Analyses (U.S.

EPA, 2000a), and 7 percent which is recommended by OMB Circular A–94 (OMB, 1992).

More specifically, the base estimate of benefits reflects the use of peer-reviewed methodologies developed for earlier risk and benefit-cost assessments related to the Clean Air Act, such as the regulatory assessments of the Heavy Duty Diesel and Tier II rules and the section 812 Report to Congress. The alternative estimate explores important aspects of the key elements underlying estimates of the benefits of reducing PM and SO_2 emissions, specifically focusing on estimation and valuation of mortality risk reduction and valuation of chronic bronchitis. The alternative estimate of mortality reduction relies on recent scientific studies finding an association between increased mortality and short-term exposure to particulate matter over days to weeks, while the base estimate relies on a recent reanalysis of earlier studies that associate long-term exposure to fine particles with increased mortality. The alternative estimate differs in the following ways: it explicitly omits any impact of long-term exposure on premature mortality, it uses different data on valuation and makes adjustments relating to the health status and potential longevity of the populations most likely affected by PM, it also uses a cost-of-illness method to value reductions in cases of chronic bronchitis while the base estimate is based on individual's willingness to pay (WTP) to avoid a case of chronic bronchitis. In addition, one key area of uncertainty is the value of a statistical life (VSL) for risk reductions in mortality, which is also the category of benefits that accounts for a large portion of the total benefit estimate. The adoption of a value for the projected reduction in the risk of premature mortality is the subject of continuing discussion within the economic and public policy analysis community. There is general agreement that the value to an individual of a reduction in mortality risk can vary based on several factors, including the age of the individual, the type of risk, the level of control the individual has over the risk, the individual's attitude toward risk, and the health status of the individual.

The Environmental Economics Advisory Committee (EEAC) of the EPA Science Advisory Board (SAB) recently issued an advisory report which states that ''the theoretically appropriate method is to calculate willingness to pay for individuals whose ages correspond to those of the affected population, and that it is preferable to base these calculations on empirical estimates of WTP by age.'' (EPA–SAB–EEAC–00–013). In developing our base estimate of the benefits of premature mortality reductions, we have appropriately discounted over the lag period between exposure and premature mortality. However, the empirical basis for adjusting the current $6 million VSL for other factors does not yet justify including these in our base estimate. A discussion of these factors is contained in the RIA and supporting documents. The EPA recognizes the need for additional research by the scientific community to develop additional empirical support for adjustments to VSL for the factors mentioned above. Furthermore, EPA prefers not to draw distinctions in the monetary value assigned to the lives saved even if they differ in age, health status, socioeconomic status, gender or other characteristic of the adult population.

Given the advice from the SAB, we employed the suggested approach for the benefit analysis of the Heavy Duty Engine/Diesel Fuel standards conducted in 2000 to the Industrial, Commercial, and Institutional Boiler and Process Heater MACT discussed in this preamble. A full discussion of considerations made in our presentation of benefits is summarized in the preamble of the Final Heavy Duty Diesel Program issued in December 2000, and in all supporting documentation and analyses of the Heavy Duty Diesel Program, and in the RIA for the proposed rulemaking.

In addition to the presentation of mortality valuation, our estimate also includes a ''B'' to represent those additional health and environmental benefits which could not be expressed in quantitative incidence and/or economic value terms. A full listing of the benefit categories that could not be quantified or monetized in our estimate are provided in the RIA for the proposed rule. A full appreciation of the overall economic consequences of the proposed industrial boiler and process heater standards requires consideration of all benefits and costs expected to result from today's proposed rule, not just those benefits and costs which could be expressed here in dollar terms. A full listing of the benefit categories that could not be quantified or monetized in our estimate are provided in Table 5 of this preamble.

TABLE 5.—UNQUANTIFIED BENEFIT CATEGORIES

	Unquantified benefit categories associated with HAP	Unquantified benefit categories associated with PM
Health Categories	Airway responsiveness Pulmonary inflammation Increased susceptibility to respiratory infection Acute inflammation and respiratory cell damage Chronic respiratory damage/Premature aging of lungs Emergency room visits for asthma	Changes in pulmonary function. Morphological changes. Altered host defense mechanisms. Cancer. Other chronic respiratory disease. Emergency room visits for asthma. Emergency room visits for non-asthma respiratory and cardiovascular causes. Lower and upper respiratory symptoms. Acute bronchitis. Shortness of breath. Increased school absence rates.
Welfare Categories	Ecosystem and vegetation effects Damage to urban ornamentals (*e.g.*, grass, flowers, shrubs, and trees in urban areas) Commercial field crops Fruit and vegetable crops Reduced yields of tree seedlings, commercial and non- commercial forests Damage to ecosystems Materials damage	Materials damage. Damage to ecosystems (*e.g.*, acid sulfate deposition). Nitrates in drinking water. Visibility in recreational and residential areas.

In summary, the base estimate using the VSL approach yields a total monetized benefit estimate of $16.1 billion + B (1999 dollars) in 2005 when using a 3 percent interest rate (or approximately $15.4 billion + B when using a 7 percent interest rate). The alternative estimate totals approximately $2.4 billion + B when using a 3 percent interest rate (or approximately $2.6 billion + B when using a 7 percent interest rate).

Using the results of the benefit analysis, we can use benefit-cost comparison (or net benefits) as another tool to evaluate the reallocation of society's resources needed to address the pollution externality created by the operation of industrial boilers and process heaters. The additional costs of internalizing the pollution produced at major sources of emissions from industrial boilers and process heaters are compared to the improvement in society's well-being from a cleaner and healthier environment. Comparing benefits of the proposed rule to the costs imposed by alternative ways to control emissions optimally identifies a strategy that results in the highest net benefit to society. In the case of the proposed rule, we are proposing only one option, the minimal level of control mandated by the CAA, or the MACT floor. Other alternatives that lead to higher levels of control (or beyond-the-floor alternatives) lead to higher estimates of benefits net of costs, but also lead to additional economic impacts including more substantial impacts to small entities. For more details, please refer to the RIA for the proposed rule.

Table 6 of this preamble presents a summary of costs, benefits, and net benefits (*i.e.*, benefits minus costs). Based on estimated compliance costs associated with the proposed rule and the predicted change in prices and production in the affected industries, the estimated social costs of the proposed rule are $780 million (1999 dollars). Social costs are different from compliance costs in that social costs take into account the interactions between affected producers and the consumers of affected products in response to the imposition of the compliance costs.

Therefore, the Agency's base estimate of monetized benefits net of costs is $15.2 billion + B (1999 dollars) in 2005 when using a 3 percent discount rate (or approximately $15 billion + B when using a 7 percent discount rate). However, using the more conservative alternative estimate of benefits, net benefits are $1.5 billion + B (1999 dollars) under a 3 percent discount rate (or approximately $1.7 billion + B when using a 7 percent discount rate).

In both cases, net benefits would be greater if all the benefits of the HAP and other pollutant reductions could be quantified. Notable omissions to the net benefits include all benefits of HAP reductions, including reduced cancer incidences, toxic morbidity effects, and cardiovascular and CNS effects. It is also important to note that not all benefits of SO_2 and PM reductions have been monetized.

TABLE 6.—ANNUAL NET BENEFITS OF THE INDUSTRIAL BOILERS AND PROCESS HEATERS NESHAP IN 2005 [A]

	MACT floor (million 1999$)	Beyond the MACT floor (million 1999$)
Social Costs [B]	$837	$1,923
Social Benefits: [B, C, D]		
HAP-related health and welfare benefits	Not monetized	Not monetized.
PM-related welfare benefits	Not monetized	Not monetized.
SO_2 – and PM-related health benefits:		
Primary Estimate		
—Using 3% Discount Rate	$16,300 + B	$17,230 + B.
Using 7% Discount Rate	$15,430 + B	$16,310 + B.
Alternative Estimate		
—Using 3% Discount Rate	$2,350 + B	$2,380 + B.
—Using 7% Discount Rate	$2,585 + B	$2,620 + B.
Net Benefits (Benefits – Costs): [C, D]		
Primary Estimate		
—Using 3% Discount Rate	$15,465	$15,305 + B.
—Using 7% Discount Rate	$14,595	$14,385 + B.
Alternative Estimate		
—Using 3% Discount Rate	$1,515	$455 + B.
—Using 7% Discount Rate	$1,750	$700 + B.

[A] All costs and benefits are rounded to the nearest $5 million. Thus, figures presented in this table may not exactly equal benefit and cost numbers presented in earlier sections of the chapter.

[B] Note that costs are the total costs of reducing all pollutants, including HAP as well as SO_2 and PM_{10}. Benefits in this table are associated only with PM and SO_2 reductions.

[C] Not all possible benefits or disbenefits are quantified and monetized in this analysis. Potential benefit categories that have not been quantified and monetized are listed in Table 8–13. B is the sum of all unquantified benefits and disbenefits.

[D] Monetized benefits are presented using two different discount rates. Results calculated using 3 percent discount rate are recommended by EPA's *Guidelines for Preparing Economic Analyses* (U.S. EPA, 2000a). Results calculated using 7 percent discount rate are recommended by OMB Circular A–94 (OMB, 1992).

V. Public Participation and Requests for Comment

The ICCR Federal Advisory Committee (*i.e.*, the Coordinating Committee), which is discussed previously in this preamble, was designed and created to foster active participation from stakeholders, including environmental groups, regulated industries, local governments, Federal agencies, and State and local regulatory agencies. The stakeholders were able to participate in the development of FACA committee recommendations on many regulatory issues.

The ICCR Coordinating Committee also encouraged the public to provide

input on its data and recommendations throughout the 2-year charter. To enhance the public's ability to participate, EPA maintained a bulletin board on the Technology Transfer Network to disseminate information on the ICCR Coordinating Committee and Work Group meeting schedules and minutes, works in progress, and final recommendations. The public could submit comments on any information posted on the bulletin board to members of the ICCR Coordinating Committee or Work Group. Individuals could also attend the ICCR Coordinating Committee and Work Group meetings and comment on the information being presented and discussed. After the FACA charter expired, individual stakeholders and members of the public were encourage to submit individual comments and information to EPA staff. On several occasions after the FACA charter expired, EPA met with individual stakeholder groups to discuss the status of the proposed rulemaking and to hear their concerns and comments regarding the proposed rulemaking.

To continue participation of stakeholders in the rulemaking process, EPA is requesting comments and data to support the proposed rule. The EPA requests comments on all aspects of the proposed rule from all interested parties.

VI. Administrative Requirements

A. Executive Order 12866, Regulatory Planning and Review

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

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

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

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

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

Pursuant to the terms of Executive Order 12866, the Agency has determined that the proposed rule is a ''significant regulatory action'' because it has an annual effect on the economy of over $100 million. As such, this proposed action was submitted to OMB for review.

B. Executive Order 13132, Federalism

Executive Order 13132 (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.

The proposed 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 agency is required by section 112 of the CAA, to establish the standards in the proposed rule. The proposed rule primarily affects private industry, and does not impose significant economic costs on State or local governments. The proposed rule does not include an express provision preempting State or local regulations. Thus, the requirements of section 6 of the Executive Order do not apply to the proposed rule.

Although section 6 of Executive Order 13132 does not apply to the proposed rule, we consulted with representatives of State and local governments to enable them to provide meaningful and timely input into the development of the proposed rule. This consultation took place during the ICCR FACA committee meetings where members representing State and local governments participated in developing recommendations for EPA's combustion-related rulemakings, including the proposed rule. The concerns raised by representatives of State and local governments were considered during the development of the proposed rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on the proposed rule from State and local officials.

C. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' The proposed rule does not have tribal implications, as specified in Executive Order 13175.

The proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. We do not know of any industrial-commercial-institutional boilers or process heaters owned or operated by Indian tribal governments. However, if there are any, the effect of the proposed rule on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to the proposed rule. The EPA specifically solicits additional comment on the proposed rule from tribal officials.

D. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 (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 we have 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 proposed rule on children, and explain why the proposed rule is preferable to other potentially effective and reasonably feasible alternatives.

The EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. The proposed rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

E. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L.

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, we 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 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires us 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 us 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 we establish any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, we must develop a small government agency plan under section 203 of the UMRA. 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 regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

We have determined that the proposed rule contains 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 1 year. Accordingly, we have prepared a written statement entitled ''Unfunded Mandates Reform Act Analysis for the Proposed Industrial Boilers and Process Heaters NESHAP'' under section 202 of the UMRA which is summarized below.

1. Statutory Authority

As discussed in section I of this preamble, the statutory authority for the proposed rulemaking is section 112 of the CAA. Title III of the CAA Amendments was enacted to reduce nationwide air toxic emissions. Section 112(b) of the CAA lists the 188 chemicals, compounds, or groups of chemicals deemed by Congress to be HAP. These toxic air pollutants are to be regulated by NESHAP.

Section 112(d) of the CAA directs us to develop NESHAP which require existing and new major sources to control emissions of HAP using MACT based standards. This NESHAP applies to all industrial, commercial, and institutional boilers and process heaters located at major sources of HAP emissions.

In compliance with section 205(a) of the UMRA, we identified and considered a reasonable number of regulatory alternatives. Additional information on the costs and environmental impacts of these regulatory alternatives is presented in the docket.

The regulatory alternative upon which the proposed rule is based represents the MACT floor for industrial boilers and process heaters and, as a result, it is the least costly and least burdensome alternative.

2. Social Costs and Benefits

The regulatory impact analysis prepared for the proposed rule including the Agency's assessment of costs and benefits, is detailed in the ''Regulatory Impact Analysis for the Proposed Industrial Boilers and Process Heaters MACT'' in the docket. Based on estimated compliance costs associated with the proposed rule and the predicted change in prices and production in the affected industries, the estimated social costs of the proposed rule are $780 million (1999 dollars).

It is estimated that 5 years after implementation of the proposed rule, HAP will be reduced by 58,500 tons per year due to reductions in arsenic, beryllium, dioxin, hydrochloric acid, and several other HAP from industrial boilers and process heaters. Studies have determined a relationship between exposure to these HAP and the onset of cancer, however, there are some questions remaining on how cancers that may result from exposure to these HAP can be quantified in terms of dollars. Therefore, the Agency is unable to provide a monetized estimate of the benefits of the HAP reduced by the proposed rule at this time. However, there are significant reductions in PM and in SO_2 that occur. Reductions of 560,000 tons of PM with a diameter of less than or equal to 10 micrometers (PM_{10}), 159,000 tons of PM with a diameter of less than or equal to 2.5 micrometers (PM_{10}), and 112,000 tons of SO_2 are expected to occur. These reductions occur from existing sources in operation 5 years after the implementation of the regulation and are expected to continue throughout the life of the affected sources. The major health effect that results from these PM and SO_2 emissions reductions is a reduction in premature mortality. Other health effects that occur are reductions in chronic bronchitis, asthma attacks, and work-lost days (*i.e.*, days when employees are unable to work).

While we are unable to monetize the benefits associated with the HAP emissions reductions, we are able to monetize the benefits associated with the PM and SO_2 emissions reductions. For SO_2 and PM, we estimated the benefits associated with health effects of PM but were unable to quantify all categories of benefits (particularly those associated with ecosystem and environmental effects). Unquantified benefits are noted with ''B'' in the estimates presented below. Our base estimate of the monetized benefits in 2005 associated with the implementation of the proposed alternative is $16.1 billion (1999 dollars) when using a 3 percent discount rate (or approximately $15.4 billion + B when using a 7 percent discount rate). This estimate, at a 3 percent discount rate, is about $15 billion (1999 dollars) higher than the estimated social costs shown earlier in this section. The alternative estimate of benefits is $2.4 billion (1999 dollars) when using a 3 percent discount rate (or approximately $2.6 billion + B when using a 7 percent discount rate). This estimate, at a 3 percent discount rate, is about $1.5 billion higher than the estimated social costs. The general approach to value benefits is discussed in more detail earlier in this preamble. For more detailed information on the benefits estimated for the proposed rulemaking, refer to the RIA in the docket.

3. Future and Disproportionate Costs

The Unfunded Mandates Act requires that we estimate, where accurate estimation is reasonably feasible, future compliance costs imposed by the proposed rule and any disproportionate budgetary effects. Our estimates of the future compliance costs of the proposed rule are discussed previously in this preamble.

We do not believe that there will be any disproportionate budgetary effects of the proposed rule on any particular areas of the country, State or local governments, types of communities (*e.g.*, urban, rural), or particular industry segments. This is true for the 257 facilities owned by 54 different government bodies and is borne out by the results of the ''Economic Impact Analysis of the Proposed Industrial Boilers and Process Heaters NESHAP,''

the results of which are discussed previously in this preamble.

4. Effects on the National Economy

The Unfunded Mandates Act requires that we estimate the effect of the proposed rule on the national economy. To the extent feasible, we must estimate the effect on productivity, economic growth, full employment, creation of productive jobs, and international competitiveness of the U.S. goods and services, if we determine that accurate estimates are reasonably feasible and that such effect is relevant and material.

The nationwide economic impact of the proposed rule is presented in the ''Economic Impact Analysis for the Industrial Boilers and Process Heaters MACT'' in the docket. This analysis provides estimates of the effect of the proposed rule on some of the categories mentioned above. The results of the economic impact analysis are summarized previously in this preamble. The results show that there will be little impact on prices and output from the affected industries, and little impact on communities that may be affected by the proposed rule. In addition, there should be little impact on energy markets (in this case, coal, natural gas, petroleum products, and electricity). Hence, the potential impacts on the categories mentioned above should be minimal.

5. Consultation with Government Officials

The Unfunded Mandates Act requires that we describe the extent of the Agency's prior consultation with affected State, local, and tribal officials, summarize the officials' comments or concerns, and summarize our response to those comments or concerns. In addition, section 203 of the UMRA requires that we develop a plan for informing and advising small governments that may be significantly or uniquely impacted by a proposal. Although the proposed rule does not affect any State, local, or Tribal governments, we have consulted with State and local air pollution control officials. We also have held meetings on the proposed rule with many of the stakeholders from numerous individual companies, environmental groups, consultants and vendors, labor unions, and other interested parties. We have added materials to the Air Docket to document these meetings.

In addition, we have determined that the proposed rule contains no regulatory requirements that might significantly or uniquely affect small governments. While some small governments may have some sources affected by the proposed rule, the impacts are not expected to be significant. Therefore, today's proposed rule is not subject to the requirements of section 203 of the UMRA.

F. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 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 proposed rule on small entities, small entity is defined as: (1) A small business according to Small Business Administration (SBA) size standards by the North American Industry Classification System category of the owning entity. The range of small business size standards for the 40 affected industries ranges from 500 to 1,000 employees, except for petroleum refining and electric utilities. In these latter two industries, the size standard is 1,500 employees and a mass throughput of 75,000 barrels/day or less, and 4 million kilowatt-hours of production or less, respectively; (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 impact of the proposed rule on small entities, EPA certifies that this action will not have a significant impact on a substantial number of small entities. Based on SBA size definitions for the affected industries and reported sales and employment data, the Agency identified 185 of the 576 companies, or 32 percent, owning affected facilities as small businesses. Although small businesses represent 32 percent of the companies within the source category, they are expected to incur 4 percent of the total compliance costs of $862.7 million (1998 dollars). There are only ten small firms with compliance costs equal to or greater than 3 percent of their sales. In addition, there are 24 small firms with cost-to-sales ratios between 1 and 3 percent.

An economic impact analysis was performed to estimate the changes in product price and production quantities for the proposed rule. As mentioned in the summary of economic impacts, the estimated changes in prices and output for affected firms is no more than 0.05 percent.

This analysis indicates that the proposed rule should not generate a significant impact on a substantial number of small entities for following reasons. First, there are 34 small firms (or 18 percent of all affected small firms) with compliance costs equal to or greater than 1 percent of their sales. Of these, ten small firms (or 5 percent of all affected small firms) with compliance costs equal to or greater than 3 percent of their sales. Second, the results of the economic impact analysis show minimal impacts on prices and output from affected firms, including small entities, due to the implementation of the proposed rule. For more information, consult the docket for the proposed rule.

The proposed rule will not have a significant economic impact on a substantial number of small entities as a result of several decisions EPA made regarding the development of the rule which resulted in limiting the impact of the rule on small entities. First, as mentioned earlier in this preamble, EPA identified small units (heat input of 10 MMBtu/hr or less) and limited use boilers (operate less than 10 percent of the time) as separate subcategories different from large units. Many small and limited use units are located at small entities. As also discussed earlier, the results of the MACT floor analysis for these subcategories of existing sources was that no MACT floor could be identified except for the limited use solid fuel subcategory which is less stringent than the MACT floor for large units. Furthermore, the results of the beyond-the-floor analysis for these subcategories indicated that the costs would be too high to consider them feasible options. Consequently, the proposed rule contains no emission limitations for any of the existing small and limited use subcategories except the existing limited use solid fuel subcategory. In addition, the proposed alternative metals emission limit resulted in minimizing the impacts on small entities since some of the potential entities burning a fuel containing very little metals are small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

G. Paperwork Reduction Act

The information collection requirements in the proposed rule will be submitted for approval to the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* An Information Collection Request (ICR) document has been prepared by EPA (ICR No. 2028.01) and a copy may be obtained from Susan Auby by mail at the Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Avenue NW., Washington, DC 20460, by e-mail at *auby.susan@epa.gov,* or by calling (202) 566–1672. A copy may also be downloaded off the Internet at *http://www.epa.gov/icr.*

The information requirements are based on notification, recordkeeping, and reporting requirements in the NESHAP General Provisions (40 CFR part 63, subpart A), which are mandatory for all operators subject to national emission standards. These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The proposed rule would require maintenance inspections of the control devices but would not require any notifications or reports beyond those required by the General Provisions. The recordkeeping requirements require only the specific information needed to determine compliance.

The annual monitoring, reporting, and recordkeeping burden for this collection (averaged over the first 3 years after the effective date of the standards) is estimated to be $165 million. This includes 2.7 million labor hours per year at a total labor cost of $142 million per year, and total non-labor capital costs of $24 million per year. This estimate includes a one-time performance test, semiannual excess emission reports, maintenance inspections, notifications, and recordkeeping. Monitoring costs were also included in the cost estimates presented in the control costs impacts estimates in section IV.D of this preamble. The total burden for the Federal government (averaged over the first 3 years after the effective date of the standard) is estimated to be 346,000 hours per year at a total labor cost of $14 million per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for our regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

Comments are requested 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. Send comments on the ICR to the Director, Collection Strategies Division, U.S. Environmental Protection Agency (2822), 1200 Pennsylvania Ave., NW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Include the ICR number in any correspondence.

Since OMB is required to make a decision concerning the ICR between 30 and 60 days after January 13, 2003, a comment to OMB is best assured of having its full effect if OMB receives it by February 12, 2003. The final rule will respond to any OMB or public comments on the information collection requirements contained in the proposed rule.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Public Law 104–113; 15 U.S.C. 272 *note*) directs the EPA to use voluntary consensus standards in their regulatory and procurement 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) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to the Office of Management and Budget, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The EPA cites the following standards in the proposed rule: EPA Methods 1, 2, 2F, 2G, 3A, 3B, 4, 5, 5D, 17, 19, 26, 26A, 29 of 40 CFR part 60. Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these EPA methods. No applicable voluntary consensus standards were identified for EPA Methods 2F, 2G, 5D, and 19. The search and review results have been documented and are placed in the docket for the proposed rule.

The three voluntary consensus standards described below were identified as acceptable alternatives to EPA test methods for the purposes of the proposed rule.

The voluntary consensus standard ASME PTC 19–10–1981—Part 10, ''Flue and Exhaust Gas Analyses,'' is cited in the proposed rule for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of exhaust gas. This part of ASME PTC 19–10–1981—Part 10 is an acceptable alternative to Method 3B.

The voluntary consensus standard ASTM D6522–00, ''Standard Test Method for the Determination of Nitrogen Oxides, Carbon Monoxide, and Oxygen Concentrations in Emissions from Natural Gas-Fired Reciprocating Engines, Combustion Turbines, Boilers and Process Heaters Using Portable Analyzers'' is an acceptable alternative to EPA Method 3A for identifying carbon monoxide and oxygen concentrations for the proposed rule when the fuel is natural gas.

The voluntary consensus standard ASTM Z65907, ''Standard Method for Both Speciated and Elemental Mercury Determination,'' is an acceptable alternative to EPA Method 29 (portion for mercury only) for the purpose of the proposed rule. This standard can be used in the proposed rule to determine the mercury concentration in stack gases for boilers with rated heat input capacities of greater than 250 MMBtu per hour.

In addition to the voluntary consensus standards EPA uses in the proposed rule, the search for emissions measurement procedures identified 15 other voluntary consensus standards.

The EPA determined that 13 of these 15 standards identified for measuring emissions of the HAP or surrogates subject to emission standards in the proposed rule were impractical alternatives to EPA test methods for the purposes of the rule. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for this determination for the 13 methods are discussed below.

The voluntary consensus standard ASTM D3154–00, ''Standard Method for Average Velocity in a Duct (Pitot Tube Method),'' is impractical as an alternative to EPA Methods 1, 2, 3B, and 4 for the purposes of the proposed rulemaking since the standard appears to lack in quality control and quality assurance requirements. Specifically, ASTM D3154–00 does not include the following: (1) Proof that openings of standard pitot tube have not plugged during the test; (2) if differential pressure gauges other than inclined manometers (*e.g.*, magnehelic gauges) are used, their calibration must be checked after each test series; and (3) the frequency and validity range for calibration of the temperature sensors.

The voluntary consensus standard ASTM D3464–96 (2001), ''Standard Test Method Average Velocity in a Duct Using a Thermal Anemometer,'' is impractical as an alternative to EPA Method 2 for the purposes of the proposed rule primarily because applicability specifications are not clearly defined, *e.g.*, range of gas composition, temperature limits. Also, the lack of supporting quality assurance data for the calibration procedures and specifications, and certain variability issues that are not adequately addressed by the standard limit EPA's ability to make a definitive comparison of the method in these areas.

The voluntary consensus standard ISO 10780:1994, ''Stationary Source Emissions-Measurement of Velocity and Volume Flow-Rate of Gas Streams in Ducts,'' is impractical as an alternative to EPA Method 2 in the proposed rule. The standard recommends the use of an L-shaped pitot, which historically has not been recommended by EPA. The EPA specifies the S-type design which has large openings that are less likely to plug up with dust.

The voluntary consensus standard, CAN/CSA Z223.2–M86 (1999), ''Method for the Continuous Measurement of Oxygen, Carbon Dioxide, Carbon Monoxide, Sulphur Dioxide, and Oxides of Nitrogen in Enclosed Combustion Flue Gas Streams,'' is unacceptable as a substitute for EPA Method 3A since it does not include quantitative specifications for measurement system performance, most notably the calibration procedures and instrument performance characteristics. The instrument performance characteristics that are provided are nonmandatory and also do not provide the same level of quality assurance as the EPA methods. For example, the zero and span/calibration drift is only checked weekly, whereas the EPA methods requires drift checks after each run.

Two very similar voluntary consensus standards, ASTM D5835–95 (2001), ''Standard Practice for Sampling Stationary Source Emissions for Automated Determination of Gas Concentration,'' and ISO 10396:1993, ''Stationary Source Emissions: Sampling for the Automated Determination of Gas Concentrations,'' are impractical alternatives to EPA Method 3A for the purposes of the proposed rule because they lack in detail and quality assurance/quality control requirements. Specifically, these two standards do not include the following: (1) Sensitivity of the method; (2) acceptable levels of analyzer calibration error; (3) acceptable levels of sampling system bias; (4) zero drift and calibration drift limits, time span, and required testing frequency; (5) a method to test the interference response of the analyzer; (6) procedures to determine the minimum sampling time per run and minimum measurement time; and (7) specifications for data recorders, in terms of resolution (all types) and recording intervals (digital and analog recorders, only).

The voluntary consensus standard ISO 12039:2001, ''Stationary Source Emissions—Determination of Carbon Monoxide, Carbon Dioxide, and Oxygen—Automated Methods,'' is not acceptable as an alternative to EPA Method 3A. This ISO standard is similar to EPA Method 3A, but is missing some key features. In terms of sampling, the hardware required by ISO 12039:2001 does not include a 3-way calibration valve assembly or equivalent to block the sample gas flow while calibration gases are introduced. In its calibration procedures, ISO 12039:2001 only specifies a two-point calibration while EPA Method 3A specifies a three-point calibration. Also, ISO 12039:2001 does not specify performance criteria for calibration error, calibration drift, or sampling system bias tests as in the EPA method, although checks of these quality control features are required by the ISO standard.

The voluntary consensus standard ASME PTC–38–80 R85 (1985), ''Determination of the Concentration of Particulate Matter in Gas Streams,'' is not acceptable as an alternative for EPA Method 5 because ASTM PTC–38–80 is not specific about equipment requirements, and instead presents the options available and the pro's and con's of each option. The key specific differences between ASME PTC–38–80 and the EPA methods are that the ASME standard: (1) Allows in-stack filter placement as compared to the out-of-stack filter placement in EPA Methods 5 and 17; (2) allows many different types of nozzles, pitots, and filtering equipment; (3) does not specify a filter weighing protocol or a minimum allowable filter weight fluctuation as in the EPA methods; and (4) allows filter paper to be only 99 percent efficient, as compared to the 99.95 percent efficiency required by the EPA methods.

The voluntary consensus standard ASTM D3685/D3685M–98, ''Test Methods for Sampling and Determination of Particulate Matter in Stack Gases,'' is similar to EPA Methods 5 and 17, but is lacking in the following areas that are needed to produce quality, representative particulate data:

(1) Requirement that the filter holder temperature should be between 120°C and 134°C, and not just ''above the acid dew-point;'' (2) detailed specifications for measuring and monitoring the filter holder temperature during sampling; (3) procedures similar to EPA Methods 1, 2, 3, and 4, that are required by EPA Method 5; (4) technical guidance for performing the Method 5 sampling procedures, *e.g.*, maintaining and monitoring sampling train operating temperatures, specific leak check guidelines and procedures, and use of reagent blanks for determining and subtracting background contamination; and (5) detailed equipment and/or operational requirements, *e.g.*, component exchange leak checks, use of glass cyclones for heavy particulate loading and/or water droplets, operating under a negative stack pressure, exchanging particulate loaded filters, sampling preparation and implementation guidance, sample recovery guidance, data reduction guidance, and particulate sample calculations input.

The voluntary consensus standard ISO 9096:1992, ''Determination of Concentration and Mass Flow-Rate of Particulate Matter in Gas Carrying Ducts—Manual Gravimetric Method,'' is not acceptable as an alternative for EPA Method 5. Although sections of ISO 9096 incorporate EPA Methods 1, 2, and 5 to some degree, this ISO standard is not equivalent to EPA Method 5 for collection of particulate matter. The standard ISO 9096 does not provide applicable technical guidance for performing many of the integral

procedures specified in Methods 1, 2, and 5. Major performance and operational details are lacking or nonexistent, and detailed quality assurance/quality control guidance for the sampling operations required to produce quality, representative particulate data (*e.g.*, guidance for maintaining and monitoring train operating temperatures, specific leak check guidelines and procedures, and sample preparation and recovery procedures) are not provided by the standard, as in EPA Method 5. Also, details of equipment and/or operational requirements, such as those specified in EPA Method 5, are not included in the ISO standard, *e.g.*, stack gas moisture measurements, data reduction guidance, and particulate sample calculations.

The voluntary consensus standard CAN/CSA Z223.1–M1977, ''Method for the Determination of Particulate Mass Flows in Enclosed Gas Streams,'' is not acceptable as an alternative for EPA Method 5. Detailed technical procedures and quality control measures that are required in EPA Methods 1, 2, 3, and 4 are not included in CAN/CSA Z223.1. Second, CAN/CSA Z223.1 does not include the EPA Method 5 filter weighing requirement to repeat weighing every 6 hours until a constant weight is achieved. Third, EPA Method 5 requires the filter weight to be reported to the nearest 0.1 mg, while CAN/CSA Z223.1 requires only to the nearest 0.5 mg. Also, CAN/CSA Z223.1 allows the use of a standard pitot for velocity measurement when plugging of the tube opening is not expected to be a problem. Whereas, EPA Method 5 requires an S-shaped pitot.

The voluntary consensus standard EN 1911–1,2,3 (1998), ''Stationary Source Emissions—Manual Method of Determination of HCl—Part 1: Sampling of Gases Ratified European Text—Part 2: Gaseous Compounds Absorption Ratified European Text—Part 3: Adsorption Solutions Analysis and Calculation Ratified European Text,'' is impractical as an alternative to EPA Methods 26 and 26A. Part 3 of this standard cannot be considered equivalent to EPA Method 26 or 26A because the sample absorbing solution (water) would be expected to capture both HCl and chlorine gas, if present, without the ability to distinguish between the two. The EPA Methods 26 and 26A use an acidified absorbing solution to first separate HCl and chlorine gas so that they can be selectively absorbed, analyzed, and reported separately. In addition, in EN 1911 the absorption efficiency for chlorine gas would be expected to vary as the pH of the water changed during sampling.

The voluntary consensus standard EN 13211 (1998), is not acceptable as an alternative to the mercury portion of EPA Method 29 primarily because it is not validated for use with impingers, as in the EPA method, although the method describes procedures for the use of impingers. This European standard is validated for the use of fritted bubblers only and requires the use of a side (split) stream arrangement for isokinetic sampling because of the low sampling rate of the bubblers (up to 3 liters per minute, maximum). Also, only two bubblers (or impingers) are required by EN 13211, whereas EPA Method 29 require the use of six impingers. In addition, EN 13211 does not include many of the quality control procedures of EPA Method 29, especially for the use and calibration of temperature sensors and controllers, sampling train assembly and disassembly, and filter weighing.

Two of the 15 voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of the proposed rule because they are under development by a voluntary consensus body: ASME/BSR MFC 13M, ''Flow Measurement by Velocity Traverse,'' for EPA Method 2 (and possibly 1); and ASME/BSR MFC 12M, ''Flow in Closed Conduits Using Multiport Averaging Pitot Primary Flowmeters,'' for EPA Method 2.

Section 63.7520 and Tables 4A through 4D to subpart DDDDD, 40 CFR part 63, list the EPA testing methods included in the proposed rule. Under § 63.7(f) and § 63.8(f) of subpart A of the General Provisions, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any of the EPA testing methods, performance specifications, or procedures.

I. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

Executive Order 13211, (66 FR 28355, May 22, 2001), provides that agencies shall prepare and submit to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, a Statement of Energy Effects for certain actions identified as significant energy actions. Section 4(b) of Executive Order 13211 defines ''significant energy actions'' as ''any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of a final rule or regulation, including notices of inquiry, advance notices of proposed rulemaking, and notices of proposed rulemaking: (1)(i) that is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) that is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action.'' The proposed rule is not a ''significant regulatory action'' because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The basis for the determination is as follows.

The reduction in petroleum product output, which includes reductions in fuel production, is estimated at only 0.001 percent, or about 68 barrels per day based on 2000 U.S. fuel production nationwide. That is a minimal reduction in nationwide petroleum product output. The reduction in coal production is estimated at only 0.014 percent, or about 3.5 million tons per year (or less than 1,000 tons per day) based on 2000 U.S. coal production nationwide. The combination of the increase in electricity usage estimated in section IV. C of this preamble with the effect of the increased price of affected output yields an increase in electricity output estimated at only 0.012 percent, or about 0.72 billion kilowatt-hours per year based on 2000 U.S. electricity production nationwide. All energy price changes estimated show no increase in price more than 0.05 percent nationwide, and a similar result occurs for energy distribution costs. We also expect that there will be no discernable impact on the import of foreign energy supplies, and no other adverse outcomes are expected to occur with regards to energy supplies. All of the results presented above account for the pass through of costs to consumers, as well as the cost impact to producers. For more information on the estimated energy effects, please refer to the economic impact analysis for the proposed rule. The analysis is available in the public docket.

Therefore, we conclude that the proposed rule when implemented is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects in 40 CFR Part 63

Environmental protection, Administrative practice and procedure, Air pollution control, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: November 26, 2002.

Christine Todd Whitman,

Administrator.

For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of the Federal Regulations is proposed to be amended as follows:

PART 63—[AMENDED]

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

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

2. Part 63 is amended by adding subpart DDDDD to read as follows:

Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters

What This Subpart Covers

Sec.

Emission Limitations and Work Practice Standards

General Compliance Requirements

Testing and Initial Compliance Requirements

Continuous Compliance Requirements

Notifications, Reports, and Records

Other Requirements and Information

Tables to Subpart DDDDD of Part 63

Subpart DDDDD—National Emission Standards for Hazardous Air Pollutants for Industrial, Commercial, and Institutional Boilers and Process Heaters

What This Subpart Covers

§ 63.7480 What is the purpose of this subpart?

This subpart establishes national emission limitations and work practice standards for hazardous air pollutants emitted from industrial, commercial, and institutional boilers and process heaters. This subpart also establishes requirements to demonstrate initial and continuous compliance with the emission limitations and work practice standards.

§ 63.7485 Am I subject to this subpart?

You are subject to this subpart if you own or operate an industrial, commercial, or institutional boiler or process heater that is located at, or is part of, a major source of hazardous air pollutants (HAP) emissions, except as specifically exempted in § 63.7490.

(a) An industrial, commercial, or institutional boiler is an enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water. Waste heat boilers are excluded. A process heater is an enclosed device using controlled flame with the unit's primary purpose being to transfer heat indirectly to process streams (liquids, gases, or solids) instead of generating steam.

(b) A major source of HAP emissions is any stationary source or group of stationary sources located within a contiguous area and under common control that emits or has the potential to emit any single HAP at a rate of 9.07 megagrams (10 tons) or more per year or any combination of HAP at a rate of

22.68 megagrams (25 tons) or more per year.

§ 63.7490 What parts of my facility does this subpart cover?

(a) This subpart applies to each new, reconstructed, or existing affected source.

(b) The affected source is each industrial, commercial, or institutional boiler or process heater, as defined in § 63.7485 that is not one of the types of combustion units listed in § 63.7490(b)(1) through (10).

(1) A municipal waste combustor covered by 40 CFR part 60, subpart AAAA, subpart BBBB, subpart Eb or subpart Cb.

(2) A hospital/medical/infectious waste incinerator covered by 40 CFR part 60, subpart Ce or subpart Ec.

(3) An electric utility steam generating unit that is a fossil fuel-fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale is considered an electric utility steam generating unit.

(4) A boiler or process heater required to have a permit under section 3005 of the Solid Waste Disposal Act or covered by 40 CFR part 63, subpart EEE (*e.g.*, hazardous waste combustors).

(5) A commercial and industrial solid waste incineration unit covered by 40 CFR part 60, subpart CCCC or subpart DDDD.

(6) A recovery boiler or furnace covered by 40 CFR part 63, subpart MM.

(7) A boiler or process heater that is used specifically for research and development. This does not include units that only provide steam to a process at a research and development facility.

(8) A hot water heater as defined in this subpart.

(9) A refining kettle covered by 40 CFR part 63, subpart X.

(10) An ethylene cracking furnace covered by 40 CFR part 63, subpart YY.

(c) An affected source is a new affected source if you commenced construction of the affected source after January 13, 2003 and you meet the applicability criteria at the time you commenced construction.

(d) An affected source is reconstructed if you meet the criteria as defined in § 63.2.

(e) An affected source is existing if it is not new or reconstructed.

§ 63.7495 When do I have to comply with this subpart?

(a) If you have a new or reconstructed affected source, you must comply with this subpart according to paragraph (a)(1) or (2) of this section.

(1) If you start up your affected source before [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER], then you must comply with the emission limitations and work practice standards for new and reconstructed sources in this subpart no later than [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER].

(2) If you startup your affected source after [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER], then you must comply with the emission limitations and work practice standards for new and reconstructed sources in this subpart upon startup of your affected source.

(b) If you have an existing affected source, you must comply with the emission limitations for existing sources no later than 3 years after [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER].

(c) If you have an area source that increases its emissions or its potential to emit such that it becomes a major source of HAP, paragraphs (c)(1) and (2) of this section apply to you.

(1) Any new or reconstructed boiler or process heater at the existing facility must be in compliance with this subpart upon startup.

(2) Any existing boiler or process heater at the existing facility must be in compliance with this subpart within 3 years after the facility becomes a major source.

(d) You must meet the notification requirements in § 63.7545 according to the schedule in § 63.7545 and in subpart A of this part. Some of the notifications must be submitted before you are required to comply with the emission limitations and work practice standards in this subpart.

Emission Limitations and Work Practice Standards

§ 63.7500 What emission limitations and work practice standards must I meet?

(a) You must meet the requirements in paragraphs (a)(1) through (3) of this section.

(1) You must meet each emission limit in Table 1 to this subpart that applies to you.

(2) You must meet each operating limit in Tables 2.A and 2.B to this subpart that applies to you. If you use a control device or combination of control devices not covered in Tables 2.A or 2.B to this subpart, or you wish to establish and monitor an alternative operating limit and alternative monitoring parameters, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

(3) You must meet each work practice standard in Table 3 to this subpart that applies to you.

(b) If your new or reconstructed boiler or process heater is in one of the liquid fuel subcategories (the large liquid fuel subcategory, the limited use liquid fuel subcategory, or the small liquid fuel subcategory) and burns only fossil fuels and other gases and does not burn any residual oil, you are subject to the emission limits in Table 1 to this subpart, but you are not required to conduct a performance test to demonstrate compliance with the emission limits. However, you must meet all applicable requirements in §§ 63.7530 and 63.7535.

(c) As provided in § 63.6(g), the Environmental Protection Agency (EPA) may choose to grant you permission to use an alternative to the work practice standards in this section.

General Compliance Requirements

§ 63.7505 What are my general requirements for complying with this subpart?

(a) You must be in compliance with the emission limitations (including operating limits) and the work practice standards in this subpart at all times, except during periods of startup, shutdown, and malfunction.

(b) You must always operate and maintain your affected source, including air pollution control and monitoring equipment, according to the provisions in § 63.6(e)(1)(i).

(c) You must develop a site-specific monitoring plan according to the requirements in paragraphs (c)(1) through (4) of this section.

(1) For each monitoring system required in this section, you must develop and submit for approval a site-specific monitoring plan that addresses paragraphs (c)(1)(i) through (iii) of this section.

(i) Installation of the continuous monitoring system (CMS) sampling probe or other interface at a measurement location relative to each affected process unit such that the measurement is representative of control of the exhaust emissions (*e.g.*, on or downstream of the last control device);

(ii) Performance and equipment specifications for the sample interface, the pollutant concentration or parametric signal analyzer, and the data collection and reduction systems; and

(iii) Performance evaluation procedures and acceptance criteria (*e.g.*, calibrations).

(2) In your site-specific monitoring plan, you must also address paragraphs (c)(2)(i) through (iii) of this section.

(i) Ongoing operation and maintenance procedures in accordance with the general requirements of § 63.8(c)(1), (c)(3), and (c)(4)(ii);

(ii) Ongoing data quality assurance procedures in accordance with the general requirements of § 63.8(d); and

(iii) Ongoing recordkeeping and reporting procedures in accordance with the general requirements of § 63.10(c), (e)(1) and (e)(2)(i).

(3) You must conduct a performance evaluation of each CMS in accordance with your site-specific monitoring plan.

(4) You must operate and maintain the CMS in continuous operation according to the site-specific monitoring plan.

(d) You must develop and implement a written startup, shutdown, and malfunction plan (SSMP) according to the provisions in § 63.6(e)(3).

Testing and Initial Compliance Requirements

§ 63.7510 By what date must I conduct performance tests or other initial compliance demonstrations?

(a) For each existing affected source, you must conduct performance tests, set operating limits, and conduct monitoring equipment performance evaluations by the compliance date that is specified for your source in § 63.7495 and according to the applicable provisions in § 63.7(a)(2) as cited in Table 10 to this subpart.

(b) For each new or reconstructed affected source, you must conduct performance tests, set operating limits, and conduct monitoring equipment performance evaluations within 180 calendar days after the compliance date that is specified for your source in § 63.7495 and according to the provisions in § 63.7(a)(2) as cited in Table 10 to this subpart.

§ 63.7515 When must I conduct subsequent performance tests?

(a) You must conduct all applicable performance tests according to the procedures in § 63.7520 on an annual basis unless you follow the requirements listed in paragraphs (b) through (h) of this section. The first subsequent performance tests must be completed within 12 months of the initial performance test but no earlier than 10 months after the initial performance test and every 12 months thereafter, unless you follow the requirements listed in paragraphs (b) through (h) of this section.

(b) You can conduct performance tests less often for a given pollutant if you have test data for at least 3 years, and all stack tests for the pollutant (particulate matter, hydrogen chloride, mercury, or total selected metals) for over 3 consecutive years show that you comply with the emission limit. In this case, you do not have to conduct a stack test for that pollutant for the next 2 years. You must do a stack test during the third year and no more than 36 months following the previous stack test.

(c) If your boiler or process heater continues to meet the emission limit for particulate matter, hydrogen chloride, mercury, or total selected metals, you may choose to conduct stack tests for these pollutants every third year, but each such test must be within 36 months of the previous stack test.

(d) If a stack test shows noncompliance with an emission limit for particulate matter, hydrogen chloride, mercury, or total selected metals, you must conduct annual stack tests for that pollutant until all stack tests over a 3-year period show compliance.

(e) You are not required to conduct a performance test for total selected metals annually if you choose to comply with the alternative total selected metals emission limit instead of particulate matter, and your operating limit is the total selected metals fuel input. You must still meet all applicable continuous compliance requirements in § 63.7540.

(f) You are not required to conduct a performance test for hydrogen chloride annually if your operating limit for hydrogen chloride is chlorine fuel input. You must still meet all applicable continuous compliance requirements in § 63.7540.

(g) You are not required to conduct a performance test for mercury annually if your operating limit for mercury is mercury fuel input. You must still meet all applicable continuous compliance requirements in § 63.7540.

(h) You must report the results of annual performance tests within 60 days after the completion of the tests. This report should also verify that the operating limits for your affected source have not changed or provide documentation of revised operating parameters established as specified in Tables 4.A through 4.E to this subpart. The reports for all subsequent performance tests should include all applicable information required in § 63.7550.

§ 63.7520 What performance tests, design evaluations, and other procedures must I use?

(a) You must conduct all performance tests according to § 63.7(c), (d), (f), and (h). You must also develop a site-specific test plan according to the requirements in § 63.7(c).

(b) You must conduct each performance test in Tables 4.A through 4.E to this subpart that applies to you.

(c) For boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn any residual oil, you are not required to conduct a performance test to demonstrate compliance with the emission limits.

(d) You must conduct each performance test under the specific conditions listed in Tables 4.A through 4.E to this subpart. You must conduct performance tests at the representative process operating conditions that are expected to result in the highest emissions of hydrogen chloride, particulate matter, and mercury, and you must demonstrate initial compliance and establish your operating limits based on this test. This requirement could result in the need to conduct more than one performance test. If you choose to comply with the alternative total selected metals emission limit instead of particulate matter, you must conduct all performance tests at the representative process operating conditions that are expected to result in the highest emissions of hydrogen chloride, total selected metals and mercury.

(e) You may not conduct performance tests during periods of startup, shutdown, or malfunction.

(f) You must conduct three separate test runs for each performance test required in this section, as specified in § 63.7(e)(3). Each test run must last at least 1 hour.

(g) To determine compliance with the emission limits, you must use the F-Factor methodology and equations in sections 12.2 and 12.3 of EPA Method 19 of appendix A of this part to convert the measured particulate matter concentrations, the measured hydrogen chloride concentrations, the measured total selected metals concentrations, and the measured mercury concentrations that result from the initial performance test to pound per million British thermal unit (MMBtu) heat input emission rates. Method 26A of appendix A of this part must be used for the hydrogen chloride performance test for those boilers and process heaters with wet scrubbers. All other boilers and process heaters must use Method 26 of

appendix A of this part for the hydrogen chloride performance test.

(h) For performance tests using Method 5, Method 29, Method 26A and Method 17 of appendix A of this part, use Method 1 of appendix A of this part to select the sampling location and number of traverse points. For Method 26 of appendix A of this part, you must use a minimum of three traverse points.

(i) If you use a control device or combination of control devices not covered in Tables 4.A through 4.E to this subpart, or you wish to establish and monitor an alternative operating limit, you must apply to the Administrator for approval of alternative monitoring under § 63.8(f).

§ 63.7525 What are my monitoring, installation, operation, and maintenance requirements?

(a) Each continuous emissions monitoring system (CEMS) for carbon monoxide must be installed, operated, and maintained according to the procedures in paragraphs (a)(1) through (4) of this section by the compliance date.

(1) Each CEMS must be installed, operated, and maintained according to Performance Specification (PS) 4A of 40 CFR part 60, appendix B, and according to the site-specific monitoring plan developed according to § 63.7505(c).

(2) You must conduct a performance evaluation of each CEMS according to the requirements in § 63.8 and according to PS 4A of 40 CFR part 60, appendix B.

(3) Each CEMS must complete a minimum of one cycle of operation (sampling, analyzing, and data recording) for each successive 15-minute period.

(4) The CEMS data must be reduced as specified in § 63.8(g)(2).

(b) Each continuous opacity monitoring system (COMS) must be installed, operated, certified and maintained according to the procedures in paragraphs (b)(1) through (7) of this section by the compliance date.

(1) Each COMS must be installed, operated, and maintained according to PS 1 of 40 CFR part 60, appendix B.

(2) You must conduct a performance evaluation of each COMS according to the requirements in § 63.8 and according to PS 1 of 40 CFR part 60, appendix B.

(3) As specified in § 63.8(c)(4)(i), each COMS must complete a minimum of one cycle of sampling and analyzing for each successive 10-second period and one cycle of data recording for each successive 6-minute period.

(4) The COMS data must be reduced as specified in § 63.8(g)(2).

(5) You must include in your site-specific monitoring plan procedures and acceptance criteria for operating and maintaining each COMS according to the requirements in § 63.8(d). At a minimum, the monitoring plan must include a daily calibration drift assessment, a quarterly performance audit, and an annual zero alignment audit of each COMS.

(6) You must operate and maintain each COMS according to the requirements in the monitoring plan and the requirements of § 63.8(e). Identify periods the COMS is out-of-control including any periods that the COMS fails to pass a daily calibration drift assessment, a quarterly performance audit, or an annual zero alignment audit.

(7) You must determine and record all the 6-minute averages and 3-hour block averages collected for periods during which the COMS is not out-of-control.

(c) You must install, operate, and maintain each continuous parameter monitoring system (CPMS) according to the requirements in § 63.8 and the procedures in paragraphs (c)(1) through (5) of this section by the compliance date specified in § 63.7495.

(1) The CPMS must complete a minimum of one cycle of operation for each successive 15-minute period. You must have a minimum of four successive cycles of operation to have a valid hour of data.

(2) Except for, monitoring malfunctions, associated repairs and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must conduct all monitoring in continuous operation at all times that the unit is operating. A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring system to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(3) For purposes of calculating data averages, you must not use data recorded during monitoring malfunctions, associated repairs, out-of-control periods, or required quality assurance or control activities. You must use all the data collected during all other periods in assessing compliance. Any period for which the monitoring system is out-of-control and data are not available for required calculations constitutes a deviation from the monitoring requirements.

(4) Determine the 3-hour block average of all recorded readings, except as provided in paragraph (c)(3) of this section.

(5) Record the results of each inspection, calibration, and validation check.

(d) For the equipment to monitor voltage and secondary current (or total power input) of the electrostatic precipitator (ESP), you must meet the requirements in paragraphs (c) and (d)(1) and (2) of this section.

(1) Use the ESP manufacturer's installed voltage and secondary current monitoring equipment to measure voltage and secondary current to the ESP.

(2) At least monthly, inspect all components of the CPMS for integrity and all electrical connections for continuity.

(e) For the equipment to monitor sorbent injection rate (*e.g.*, weigh belt, weigh hopper, or hopper flow measurement device), you must meet the requirements in paragraphs (c) and (e)(1) through (4) of this section.

(1) Locate the device in a position(s) that provides a representative measurement of the total sorbent injection rate.

(2) Install and calibrate the device in accordance with manufacturer's procedures and specifications.

(3) At least monthly, inspect all components for integrity and all electrical connections for continuity.

(4) At least annually, calibrate the device in accordance with the manufacturer's procedures and specifications.

(f) If you use a fabric filter to comply with the requirements of this subpart, you must install, calibrate, maintain, and continuously operate a bag leak detection system as specified in paragraphs (f)(1) through (8) of this section.

(1) You must install and operate a bag leak detection system for each exhaust stack of the fabric filter.

(2) Each bag leak detection system must be installed, operated, calibrated, and maintained in a manner consistent with the manufacturer's written specifications and recommendations and in accordance with the guidance provided in ''Fabric Filter Bag Leak Detection Guidance,'' EPA–454/R–98–015, September 1997.

(3) The bag leak detection system must be certified by the manufacturer to be capable of detecting particulate matter emissions at concentrations of 10 milligrams per actual cubic meter or less.

(4) The bag leak detection system sensor must provide output of relative or absolute particulate matter loadings.

(5) The bag leak detection system must be equipped with a device to

continuously record the output signal from the sensor.

(6) The bag leak detection system must be equipped with an alarm system that will sound automatically when an increase in relative particulate matter emissions over a preset level is detected. The alarm must be located where it is easily heard by plant operating personnel.

(7) For positive pressure fabric filter systems, a bag leak detection system must be installed in each baghouse compartment or cell. For negative pressure or induced air fabric filters, the bag leak detector must be installed downstream of the fabric filter.

(8) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

§ 63.7530 How do I demonstrate initial compliance with the emission limitations and work practice standards?

(a) You must demonstrate initial compliance with each emission limitation and work practice standard that applies to you according to Tables 5.A through 5.E and 6 to this subpart.

(b) For new or reconstructed boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn any residual oil, you are not required to conduct a performance test to demonstrate compliance with the emission limits.

(1) To demonstrate initial compliance, you must include a signed statement in the Notification of Compliance Status report required in § 63.7545(e) that indicates you burn only liquid fossil fuels other than residual oils either alone or in combination with gaseous fuels.

(2) You must also keep records, as required in § 63.7555, that demonstrate that you burn only liquid fossil fuels other than residual oils either alone or in combination with gaseous fuels.

(c) You must establish each site-specific operating limit in Tables 2.A and 2.B to this subpart that applies to you according to the requirements in § 63.7520, Tables 4.A through 4.E to this subpart, and paragraphs (c)(1) through (6) of this section, as applicable.

(1) If you do not use a wet or dry scrubber, you must set your operating limit for hydrogen chloride emissions based on the chlorine fuel input established during the initial performance test according to the procedures in paragraphs (c)(1)(i) and (ii) of this section.

(i) During the initial performance test for hydrogen chloride, you must measure the average hourly fuel input, average chlorine concentration, and average heat input of each fuel burned during the 3-hour performance test.

(ii) You must set your operating limit for hydrogen chloride using Equation 1 of this section:

$$Cl_{input} = \sum_{i=1}^{n} \left[\frac{(C_i)(Q_i)}{H_{v,i}} \right] \qquad \text{(Eq. 1)}$$

Where:

Cl_{input} = Average amount of chlorine entering the boiler or process heater through fuels burned in units of pounds per Btu. This is the operating limit.

C_i = Average concentration of chlorine in fuel, i, during each of the three 1-hour test periods as measured using the test methods specified in Tables 4.C and 4.D to this subpart, in units of pound per pound for solid fuels, pounds per gallon for liquid fuels, or pound per dry standard cubic foot for gaseous fuels.

Q_i = Average hourly input of fuel, i, during each of the three 1-hour test periods in units of pound per hour for solid fuels, gallons per hour for liquid fuels, or dry standard cubic feet per hour for gaseous fuels. If you do not burn multiple fuels during the performance test, it is not necessary to determine the value of this term. Insert a value of ''1'' for Q_i.

$H_{v,i}$ = Average heat input of fuel, i, during each of the three 1-hour test periods in units of Btu per hour as measured by the test methods indicated in Tables 4.C and 4.D to this subpart.

n = Number of different fuel types in the worst-case fuel input stream burned during each of the three 1-hour performance tests.

(2) If you do not use a wet scrubber, you must establish an opacity operating limit during the initial performance test for particulate matter or total selected metals and mercury. This opacity level must not exceed 20 percent.

(3) If you use a wet scrubber and you conduct separate performance tests for particulate matter, hydrogen chloride, and mercury emissions, you must establish one set of operating limits for pH, liquid flow-rate, and pressure drop. The pH must be the level established during the hydrogen chloride performance test. The liquid flow-rate and pressure drop operating limits must be the highest of the values established during the performance tests.

(4) If you do not use a control device or do not want to take credit for the control device and you choose to comply with the alternative total selected metals emission limit instead of particulate matter, you must set your operating limit for total selected metals emissions based on the metals fuel input established during the initial performance test according to the procedures in paragraphs (c)(4)(i) and (ii) of this section.

(i) During the initial performance test for total selected metals, you must measure the average hourly fuel input if you burn a combination of multiple fuels, average total selected metals concentration of the fuel input, and average heat input of each fuel burned during the 3-hour performance test.

(ii) You must set your operating limit for total selected metals using Equation 2 of this section:

$$Metals_{input} = \sum_{i=1}^{n} \left[\frac{(M_i)(Q_i)}{H_{v,i}} \right] \qquad \text{(Eq. 2)}$$

Where:

$Metals_{input}$ = Average amount of total selected metals entering the boiler or process heater through fuels burned in units of pounds per Btu. This is the operating limit.

M_i = Average concentration of total selected metals in fuel, i, during each of the three 1-hour test periods as measured using the test methods specified in Table 4.E to this subpart, in units of pound per pound for solid fuels, pound per gallon for liquid fuels, or pound per dry standard cubic foot for gaseous fuels.

Q_i = Average hourly input of fuel, i, during each of the three 1-hour test periods in units of pounds per hour for solid fuels, gallons per hour for liquid fuels, or dry standard cubic feet per hour for gaseous fuels. If you do not burn multiple fuels during the performance test, it is

not necessary to determine the value of this term. Insert a value of ''1'' for Q_i.

$Hv_{,i}$ = Average heat input of fuel, i, during each of the three 1-hour test periods in units of Btu per hour as measured by the test methods indicated in Table 4.E to this subpart.

n = Number of different fuel types in the worst-case fuel input stream burned during the 3-hour performance test.

(5) If you do not use a control device or do not want to take credit for the control device, you must set your operating limit for mercury emissions based on the mercury fuel input established during the initial performance test according to the procedures in paragraphs (c)(5)(i) and (ii) of this section.

(i) During the initial performance test for mercury, you must measure the average hourly fuel input if you burn a combination of multiple fuels, average mercury concentration of the fuel input, and average heat input of each fuel burned during the 3-hour performance test.

(ii) You must set your operating limit for mercury using Equation 3 of this section:

$$\text{Mercury}_{\text{input}} = \sum_{i=1}^{n} \left[\frac{(HG_i)(Q_i)}{H_{v,\,i}} \right] \qquad \text{(Eq. 3)}$$

Where:

$\text{Mercury}_{\text{input}}$ = Average amount of mercury entering the boiler or process heater through fuels burned in units of pounds per Btu. This is the operating limit.

HG_i = Average concentration of mercury in fuel, i, during each of the three 1-hour test periods as measured using the test methods specified in Table 4.E to this subpart, in units of pound per pound for solid fuels, pound per gallon for liquid fuels, or pound per dry standard cubic foot for gaseous fuels.

Q_i = Average hourly input of fuel, i, during each of the three 1-hour test periods in units of pounds per hour for solid fuels, gallons per hour for liquid fuels, or dry standard cubic feet per hour for gaseous fuels. If you do not burn multiple fuels during the performance test, it is not necessary to determine the value of this term. Insert a value of ''1'' for Q_i.

$H_{v,i}$ = Average heat input of fuel, i, during each of the three 1-hour test periods in units of Btu per hour as measured by the test methods indicated in Table 4.E to this subpart.

n = Number of different fuel types in the worst-case fuel input stream burned during the 3-hour performance test.

(6) You must establish parameter operating limits according to paragraphs (c)(6)(i) through (v) of this section.

(i) To establish an opacity operating limit, you must set the maximum opacity operating limit equal to the maximum 1-hour average opacity value measured during the three-run performance test for particulate matter or total selected metals and mercury, or 20 percent, whichever is lower.

(ii) To establish operating limits for a wet scrubber, you must set the minimum operating limits for pH, liquid flow-rate, and pressure drop equal to the minimum 1-hour average values measured during the three-run performance test.

(iii) To establish operating limits for an electrostatic precipitator, you must set the minimum operating limits for voltage and secondary current (or total power input) equal to the minimum 1-hour average values measured during the three-run performance test.

(iv) To establish operating limits for a dry scrubber, you must set the minimum sorbent injection rate operating limit equal to the minimum 1-hour average value measured during the three-run performance test.

(v) The operating limit for fabric filters requires that a bag leak detection system be installed according to the requirements in § 63.7525, and that each fabric filter must be operated such that the bag leak detection system alarm does not sound more than 5 percent of the operating time during a 6-month period.

(d) You must submit the Notification of Compliance Status report containing the results of the initial compliance demonstration according to the requirements in § 63.7545(e).

Continuous Compliance Requirements

§ 63.7535 How do I monitor and collect data to demonstrate continuous compliance?

(a) You must monitor and collect data according to this section.

(b) Except for monitor malfunctions, associated repairs, and required quality assurance or control activities (including, as applicable, calibration checks and required zero and span adjustments), you must monitor continuously (or collect data at all required intervals) at all times that the affected source is operating.

(c) You may not use data recorded during monitoring malfunctions, associated repairs, or required quality assurance or control activities, in data averages and calculations used to report emission or operating levels. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

§ 63.7540 How do I demonstrate continuous compliance with the emission limitations and work practice standards?

(a) You must demonstrate continuous compliance with each emission limit, operating limit, and work practice standard in Tables 1 through 3 to this subpart that applies to you according to the methods specified in Tables 7.A, 7.B, and 8 to this subpart and paragraphs (a)(1) through (9) of this section.

(1) For affected sources electing to comply with an emission limit based on fuel analysis, you must keep records of all fuels burned in each boiler or process heater during the reporting period to demonstrate that all fuels used would result in lower emissions of particulate matter or total selected metals, lower emissions of hydrogen chloride, and lower emissions of mercury than the emissions from the worst-case fuel input that was burned during the initial performance test. You must also keep records that demonstrate that all fuels burned during the reporting period were obtained from the same suppliers as those fuels burned during the performance test.

(2) For new or reconstructed boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn any residual oil, you are not required to set and maintain operating limits to demonstrate continuous compliance with the emission limits. To demonstrate continuous compliance with the emission limits, you must include a signed statement in each semiannual compliance report required in § 63.7550 that indicates you burned

only liquid fossil fuels other than residual oils, either alone or in combination with gaseous fuels, during the reporting period; and you must also keep records, as required in paragraph (a)(1) of this section and § 63.7555, that demonstrate that you burn only liquid fossil fuels other than residual oils, either alone or in combination with gaseous fuels.

(3) If you plan to burn a new type of fuel, a fuel from a new supplier, or a new mixture of fuels and your operating limit for hydrogen chloride is chlorine input, you must demonstrate continuous compliance by recalculating the chlorine input using Equation 1 of § 63.7530 according to the procedures specified in paragraphs (a)(3)(i) through (iii) of this section.

(i) Determine for any new fuel the heating value and the chlorine concentration, based on supplier data or own fuel analysis, according to the provisions in the site-specific test plan developed according to the requirements in § 63.7520(a).

(ii) Estimate the maximum hourly input at which each fuel will be burned.

(iii) Recalculate the amount of chlorine that would be put into the boiler or process heater during an hour under these new conditions using Equation 1 of § 63.7530.

(4) If you plan to burn a new type of fuel, a fuel from a new supplier or a new mixture of fuels, your operating limit for hydrogen chloride is chlorine input, and the results of recalculating the chlorine input using Equation 1 of § 63.7530 are higher than the chlorine input operating limit established during the initial performance test, then you must conduct a new performance test according to the procedures in § 63.7520 to demonstrate that the hydrogen chloride emissions do not exceed the emission limitation. You must also establish a new operating limit based on this performance test according to the procedures in § 63.7530(c).

(5) If you plan to burn a new type of fuel, a fuel from a new supplier, or a new mixture of fuels and you choose to comply with the alternative total selected metals emission limit instead of particulate matter and your operating limit is the total selected metals fuel content, you must demonstrate continuous compliance with your operating limit by recalculating the total selected metals input using Equation 2 of § 63.7530 according to the procedures specified in paragraphs (a)(5)(i) through (iii) of this section.

(i) Determine for any new fuel the heating value and the total selected metals concentration, based on supplier data or own fuel analysis, according to the provisions in the site-specific test plan developed according to the requirements in § 63.7520(a).

(ii) Estimate the maximum hourly input at which each fuel will be burned.

(iii) Recalculate the amount of total selected metals that would be put into the boiler or process heater during an hour under these new conditions using Equation 2 of § 63.7530.

(6) If you plan to burn a new type of fuel, a fuel from a new supplier or a new mixture of fuels, you choose to comply with the alternative total selected metals emission limit instead of particulate matter, and the results of recalculating the total selected metals input using Equation 2 of § 63.7530 are higher than the total selected metals operating limit established during the initial performance test, then you must conduct a new performance test according to the procedures in § 63.7520 to demonstrate that the total selected metals emissions do not exceed the emission limit. You must also establish a new operating limit based on this performance test according to the procedures in § 63.7530(c).

(7) If you plan to burn a new type of fuel, a fuel from a new supplier, or a new mixture of fuels and your operating limit for mercury emissions is the mercury fuel content, you must demonstrate continuous compliance with your operating limit by recalculating the mercury input using Equation 3 of § 63.7530 according to the procedures specified in paragraphs (a)(7)(i) through (iii) of this section.

(i) Determine for any new fuel the heating value and the mercury concentration, based on supplier data or own fuel analysis, according to the provisions in the site-specific test plan developed according to the requirements in § 63.7520(a).

(ii) Estimate the maximum hourly input at which each fuel will be burned.

(iii) Recalculate the amount of mercury that would be put into the boiler or process heater during an hour under these new conditions using Equation 3 of § 63.7530.

(8) If you plan to burn a new type of fuel, a fuel from a new supplier or a new mixture of fuels, and the results of recalculating the mercury input using Equation 3 of § 63.7530 are higher than the mercury operating limit established during the initial performance test, then you must conduct a new performance test according to the procedures in § 63.7520 to demonstrate that the mercury emissions do not exceed the emission limit. You must also establish a new operating limit based on this performance test according to the procedures in § 63.7530(c).

(9) If your unit is controlled with a fabric filter, you must demonstrate continuous compliance with the operating limits for fabric filters by operating each fabric filter system such that the bag leak detection system does not sound more than 5 percent of the operating time during a 6-month period and by keeping records of the date, time, and duration of each alarm, the time corrective action was initiated and completed, a brief description of the cause of the alarm and the corrective action taken. You must also record the percent of the operating time during each 6-month period that the alarm sounds. In calculating this operating time percentage, if inspection of the fabric filter demonstrates that no corrective action is required, no alarm time is counted. If corrective action is required, each alarm shall be counted as a minimum of 1 hour. If you take longer than 1 hour to initiate corrective action, the alarm time shall be counted as the actual amount of time taken to initiate corrective action.

(b) You must report each instance in which you did not meet each emission limit and each operating limit in Tables 7.A and 7.B to this subpart that apply to you. This includes periods of startup, shutdown, and malfunction. You must also report each instance in which you did not meet the work practice requirements in Table 8 to this subpart that apply to you. These instances are deviations from the emission limitations and work practice standards in this subpart. These deviations must be reported according to the requirements in § 63.7550.

(c) During periods of startup, shutdown, and malfunction, you must operate in accordance with the startup, shutdown, and malfunction plan as required in § 63.7505(d).

(d) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of startup, shutdown, or malfunction are not violations if you demonstrate to the Administrator's satisfaction that you were operating in accordance with the startup, shutdown, and malfunction plan. The Administrator will determine whether deviations that occur during a period of startup, shutdown, or malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.7545 What notifications must I submit and when?

(a) You must submit all of the notifications in §§ 63.6(h)(4) and (5), 63.7(b) and (c), 63.8 (e), 63.8(f)(4) and

(6), and 63.9 (b) through (h) that apply to you by the dates specified.

(b) As specified in § 63.9(b)(2), if you startup your affected source before [DATE OF PUBLICATION OF THE FINAL RULE IN THE FEDERAL REGISTER], you must submit an Initial Notification not later than 120 calendar days after [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER]. The Initial Notification must include the information required in paragraphs (b)(1) and (2) of this section, as applicable.

(1) If your affected source has an annual capacity factor of greater than 10 percent, your Initial Notification must include the information required by § 63.9(b)(2).

(2) If your affected source has a federally enforceable permit that limits the annual capacity factor to less than or equal to 10 percent such that the unit is in one of the limited use subcategories (the limited use solid fuel subcategory, the limited use liquid fuel subcategory, or the limited use gaseous fuel subcategory), your Initial Notification must include the information required by § 63.9(b)(2) and also a signed statement indicating your affected source has a federally enforceable permit that limits the annual capacity factor to less than or equal to 10 percent.

(c) As specified in § 63.9(b)(3), if you startup your new or reconstructed affected source on or after [DATE THE FINAL RULE IS PUBLISHED IN THE FEDERAL REGISTER], you must submit an Initial Notification not later than 120 calendar days after you become subject to this subpart. The Initial Notification must include the information required in paragraphs (c)(1) and (2) of this section, as applicable.

(1) If your affected source has an annual capacity factor of greater than 10 percent, your Initial Notification must include the information required by § 63.9(b)(3).

(2) If your affected source has a federally enforceable permit that limits the annual capacity factor to less than or equal to 10 percent such that the unit is in one of the limited use subcategories, your Initial Notification must include the information required by § 63.9(b)(3) and also a signed statement indicating your affected source has a federally enforceable permit that limits the annual capacity factor to less than or equal to 10 percent.

(d) If you are required to conduct a performance test, you must submit a notification of intent to conduct a performance test at least 60 calendar days before the performance test is scheduled to begin as required in § 63.7(b)(1).

(e) If you are required to conduct a performance test or other initial compliance demonstration as specified in Tables 4.A through 4.E, 5.A through 5.E, or 6 to this subpart, you must submit a Notification of Compliance Status report according to § 63.9(h)(2)(ii) and the requirements specified in paragraphs (e)(1)(i) through (e)(1)(vii) of this section.

(1) For each initial compliance demonstration, you must submit the Notification of Compliance Status report, including all performance test results, before the close of business on the 60th calendar day following the completion of the performance test and/or other initial compliance demonstrations according to § 63.10(d)(2). The Notification of Compliance Status report must contain all the information specified in paragraphs (e)(l)(i) through (vii) of this section, as applicable.

(i) A description of the affected source(s) including identification of which subcategory the source is in, the capacity of the source, a description of the add-on controls used on the source description of the fuel(s) burned, and justification for the worst-case fuel burned during the performance test.

(ii) Summary of the results of all performance tests, fuel analyses, and calculations conducted to demonstrate initial compliance including all established operating limits.

(iii) Identification of whether you are complying with the particulate matter emission limit or the alternative total selected metals emission limit.

(iv) A signed certification that you have met all applicable emission limitations and work practice standards.

(v) A summary of the carbon monoxide emissions monitoring data recorded during the performance test to show that you have met the work practice standard in Table 6 to this subpart, if applicable.

(vi) If your new or reconstructed boiler or process heater is in one of the liquid fuel subcategories and burns only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels, you must submit a signed statement certifying this in your Notification of Compliance Status report.

(vii) If you had a deviation from any emission limitation or work practice standard, you must also submit a description of the deviation, the duration of the deviation, and the corrective action taken in the Notification of Compliance Status report.

§ 63.7550 What reports must I submit and when?

(a) You must submit each report in Table 9 to this subpart that applies to you.

(b) Unless the Administrator has approved a different schedule for submission of reports under § 63.10(a), you must submit each report by the date in Table 9 to this subpart and according to the requirements in paragraphs (b)(1) through (5) of this section.

(1) The first compliance report must cover the period beginning on the compliance date that is specified for your affected source in § 63.7495 and ending on June 30 or December 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.7495.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the first calendar half after the compliance date that is specified for your source in § 63.7495.

(3) Each subsequent compliance report must cover the semiannual reporting period from January 1 through June 30 or the semiannual reporting period from July 1 through December 31.

(4) Each subsequent compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date is the first date following the end of the semiannual reporting period.

(5) For each affected source that is subject to permitting regulations pursuant to 40 CFR part 70 or 40 CFR part 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), you may submit the first and subsequent compliance reports according to the dates the permitting authority has established instead of according to the dates in paragraphs (b)(1) through (4) of this section.

(c) The compliance report must contain the information required in paragraphs (c) (1) through (11) of this section.

(1) Company name and address.

(2) Statement by a responsible official with that official's name, title, and signature, certifying the truth, accuracy, and completeness of the content of the report.

(3) Date of report and beginning and ending dates of the reporting period.

(4) The total fuel use by each affected source electing to comply with an emission limit based on fuel analysis for each calendar month within the

semiannual reporting period including, but not limited to, a description of the fuel, the total fuel usage amount with units of measure, and information on the supplier of the fuel and original source location of the fuel.

(5) A summary of the results of the annual performance tests and documentation of any operating limits that were reestablished during this test, if applicable.

(6) A signed statement indicating that you burned no new types of fuel, no fuels from a new supplier, or no new fuel mixture. Or, if you did burn a new type of fuel, a fuel from a new supplier, or a new fuel mixture and your operating limit for hydrogen chloride is fuel chlorine input, you must submit the calculation of chlorine input, using Equation 1 of § 63.7530, that demonstrates that your source is still within its operating limit for hydrogen chloride emissions. If you burned a new type of fuel, fuel from a new supplier, or a new fuel mixture and your operating limit for the alternative total selected metals emission limit is fuel total selected metals input, you must submit the calculation of total selected metals input, using Equation 2 of § 63.7530, that demonstrates that your source is still within its operating limit for total selected metals emissions. If you burned a new type of fuel, fuel from a new supplier, or a new fuel mixture and your operating limit for mercury is fuel mercury input, you must submit the calculation of mercury input, using Equation 3 of § 63.7530, that demonstrates that your source is still within its operating limit for mercury emissions.

(7) If you wish to burn a new type of fuel, a fuel from a new supplier, or a new fuel mixture, and you cannot demonstrate compliance with the hydrogen chloride operating limit using Equation 1 of § 63.7530, the total selected metals operating limit using Equation 2 of § 63.7530, or the mercury operating limit using Equation 3 of § 63.7530, you must include in the compliance report a statement indicating the intent to conduct a new performance test under the new worst-case conditions.

(8) The average daily hours of operation by each source for each calendar month within the semiannual reporting period.

(9) If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).

(10) If there are no deviations from any emission limitations (emission limits or operating limits) in this subpart that apply to you and there are no deviations from the requirements for work practice standards in Table 8 to this subpart, a statement that there were no deviations from the emission limitations or work practice standards during the reporting period.

(11) If there were no periods during which the CMS, including CEMS, COMS, and CPMS, were out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS were out-of-control during the reporting period.

(d) For each deviation from an emission limitation (emission limits or operating limits) in this subpart and for each deviation from the requirements for work practice standards in Table 8 to this subpart that occurs at an affected source where you are not using CMS to comply with that emission limitation or work practice standard, the compliance report must contain the information in paragraphs (c) (1) through (11) of this section and the information required in paragraphs (d) (1) through (4) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The total operating time of each affected source during the reporting period.

(2) A description of the deviation and which limitation you deviated from.

(3) Information on the number, duration, and cause of deviations (including unknown cause), as applicable, and the corrective action taken.

(4) A copy of the test report if the annual performance test showed a deviation from the emission limit for particulate matter or the alternative total selected metals limit, a deviation from the hydrogen chloride emission limit, or a deviation from the mercury emission limit.

(e) For each deviation from an emission limitation (emission limitation and operating limit) or work practice standard in this subpart occurring at an affected source where you are using a CMS to comply with that emission limitation or work practice standard, you must include the information in paragraphs (c) (1) through (11) of this section and the information required in paragraphs (e) (1) through (12) of this section. This includes periods of startup, shutdown, and malfunction and any deviations from your site-specific monitoring plan as required in § 63.7505(c).

(1) The date and time that each malfunction started and stopped and description of the nature of the deviation (*i.e.*, what you deviated from).

(2) The date and time that each CMS was inoperative, except for zero (low-level) and high-level checks.

(3) The date, time, and duration that each CMS was out-of-control, including the information in § 63.8(c)(8).

(4) The date and time that each deviation started and stopped, and whether each deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(5) A summary of the total duration of the deviation during the reporting period and the total duration as a percent of the total source operating time during that reporting period.

(6) A breakdown of the total duration of the deviations during the reporting period into those that are due to startup, shutdown, control equipment problems, process problems, other known causes, and other unknown causes.

(7) A summary of the total duration of CMS downtime during the reporting period and the total duration of CMS downtime as a percent of the total source operating time during that reporting period.

(8) An identification of each parameter that was monitored at the affected source for which there was a deviation, including opacity, carbon monoxide, and operating parameters for wet scrubbers and other control devices.

(9) A brief description of the source for which there was a deviation.

(10) A brief description of each CMS for which there was a deviation.

(11) The date of the latest CMS certification or audit for the system for which there was a deviation.

(12) A description of any changes in CMSs, processes, or controls since the last reporting period for the source for which there was a deviation.

(f) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 40 CFR part 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 9 to this subpart along with, or as part of, the semiannual monitoring report required by 40 CFR 70.6(a)(3)(iii)(A) or 40 CFR 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any emission limitation (including any operating limit), or work practice standard in this subpart, submission of the compliance report satisfies any obligation to report the same deviations in the semiannual monitoring report.

However, submission of a compliance report does not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permit authority.

§ 63.7555 What records must I keep?

(a) You must keep records according to paragraphs (a) (1) through (3) of this section.

(1) A copy of each notification and report that you submitted to comply with this subpart, including all documentation supporting any Initial Notification or Notification of Compliance Status or semiannual compliance report that you submitted, according to the requirements in § 63.10(b)(2)(xiv).

(2) The records in § 63.6(e)(3)(iii) through (v) related to startup, shutdown, and malfunction.

(3) Records of performance tests or other compliance demonstrations, performance evaluations, and opacity observations as required in § 63.10(b)(2)(viii).

(b) For each CEMS, CPMS, and COMS, you must keep records according to paragraphs (b) (1) through (5) of this section.

(1) Records described in § 63.10(b)(2)(vi) through (xi).

(2) Monitoring data for COMS during a performance evaluation as required in § 63.6(h)(7) (i) and (ii).

(3) Previous (*i.e.*, superseded) versions of the performance evaluation plan as required in § 63.8(d)(3).

(4) Request for alternatives to relative accuracy test for CEMS as required in § 63.8(f)(6)(i).

(5) Records of the date and time that each deviation started and stopped, and whether the deviation occurred during a period of startup, shutdown, or malfunction or during another period.

(c) You must keep the records required in Tables 7.A, 7.B, and 8 to this subpart including records of all monitoring data and calculated averages for applicable operating limits such as opacity, pressure drop, carbon monoxide, and pH to show continuous compliance with each emission limitation, operating limit and work practice standard that applies to you.

(d) You must also keep the records in paragraphs (d) (1) through (5) of this section.

(1) You must keep records of daily fuel use by each source electing to comply with an emission limit based on fuel analysis, including the type(s) of fuel, amount(s) used, and the supplier(s) and original source location(s).

(2) You must keep records of daily hours of operation by each source.

(3) A copy of all calculations and supporting documentation of chlorine fuel input, using Equation 1 of § 63.7530, that were done to demonstrate continuous compliance with the hydrogen chloride emission limitation. Supporting documentation should include results of any fuel analyses and basis for the estimates of maximum fuel input.

(4) A copy of all calculations and supporting documentation of total selected metals fuel input, using Equation 2 of § 63.7530, that were done to demonstrate continuous compliance with the total selected metals emission limitation. Supporting documentation should include results of any fuel analyses and basis for the estimates of maximum fuel input.

(5) A copy of all calculations and supporting documentation of mercury fuel input, using Equation 3 of § 63.7530, that were done to demonstrate continuous compliance with the mercury emission limitation. Supporting documentation should include results of any fuel analyses and basis for the estimates of maximum fuel input.

(e) If your boiler or process heater has a federally enforceable permit that limits the annual capacity factor to less than or equal to 10 percent such that the unit is in one of the limited use subcategories, you must keep the records in paragraphs (e) (1) and (2) of this section.

(1) A copy of the federally enforceable permit that limits the annual capacity factor of the source to less than or equal to 10 percent.

(2) Fuel use records for the days the boiler or process heater was operating.

§ 63.7560 In what form and how long must I keep my records?

(a) Your records must be in a form suitable and readily available for expeditious review, according to § 63.10(b)(1).

(b) As specified in § 63.10(b)(1), you must keep each record for 5 years following the date of each occurrence, measurement, maintenance, corrective action, report, or record.

(c) You must keep each record on site for at least 2 years after the date of each occurrence, measurement, maintenance, corrective action, report, or record, according to § 63.10(b)(1). You can keep the records offsite for the remaining 3 years.

Other Requirements and Information

§ 63.7565 What parts of the General Provisions apply to me?

Table 10 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.7570 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as your State, local, or tribal agency. If the Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to implement and enforce this subpart. You should contact your EPA Regional Office to find out if this subpart is delegated to your State, local, or tribal agency.

(b) In delegating implementation and enforcement authority to this subpart to a State, local, or tribal agency under 40 CFR part 63, subpart E, the authorities contained in paragraph (c) of this section are retained by the Administrator and are not transferred to the State, local, or tribal agency. The U.S. EPA retains oversight of this rule and can take enforcement actions, as appropriate.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (5) of this section.

(1) Approval of alternatives to the non-opacity emission limits and work practice standards in § 63.7500(a) through (c) under § 63.6(g).

(2) Approval of alternative opacity emission limits in § 63.7500(a) under § 63.6(h)(9).

(3) Approval of major alternatives to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(4) Approval of major alternatives to monitoring under § 63.8(f) and as defined in § 63.90.

(5) Approval of major alternatives to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.7575 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, in § 63.2, and in this section as follows:

Annual capacity factor means the ratio between the actual heat input to a boiler or process heater from the fuels burned during a calendar year and the potential heat input to the boiler or process heater had it been operated for 8,760 hours during a calendar year at the maximum steady state design heat input capacity.

Bag leak detection system means an instrument that is capable of monitoring particulate matter loadings in the exhaust of a fabric filter (*i.e.*, baghouse) in order to detect bag failures. A bag leak detection system includes, but is not limited to, an instrument that operates on electrodynamic, triboelectric, light scattering, light

transmittance, or other principle to monitor relative particulate matter loadings.

Biomass fuel means wood, wood residue, and wood products (*e.g.*, trees, tree stumps, tree limbs, bark, lumber, sawdust, sanderdust, chips, scraps, slabs, millings, and shavings); vegetative agricultural and silvicultural materials, such as logging residues (slash), nut and grain hulls and chaff (*e.g.*, almond, walnut, peanut, rice, and wheat), bagasse, orchard prunings, corn stalks, coffee bean hulls and grounds.

Boiler means an enclosed device using controlled flame combustion and having the primary purpose of recovering thermal energy in the form of steam or hot water. Waste heat boilers are excluded from this definition.

Coal means all solid fuels classifiable as anthracite, bituminous, subbituminous, or lignite by the American Society for Testing and Materials in ASTM D388–77, ''Standard Specification for Classification of Coals by Rank,'' coal refuse, and petroleum coke. Synthetic fuels derived from coal for the purpose of creating useful heat including, but not limited to, solvent-refined coal, coal-oil mixtures, and coal-water mixtures, are included in this definition for the purposes to this subpart.

Coal refuse means any by-product of coal mining or coal cleaning operations with an ash content greater than 50 percent (by weight) and a heating value less than 13,900 kilojoules per kilogram (6,000 Btu per pound) on a dry basis.

Commercial/Institutional boiler means a boiler used in commercial establishments or institutional establishments such as medical centers, research centers, institutions of higher education, hotels, and laundries to provide electricity, steam, and/or hot water.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart including, but not limited to, any emission limitation (including any operating limit) or work practice standard;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emission limitation (including any operating limit) or work practice standard in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Distillate oil means fuel oils that contain 0.05 weight percent nitrogen or less and comply with the specifications for fuel oil numbers 1 and 2, as defined by the American Society for Testing and Materials in ASTM D396–78, ''Standard Specifications for Fuel Oils.''

Dry scrubber means an add-on air pollution control system that injects dry alkaline sorbent (dry injection) or sprays an alkaline sorbent (spray dryer) to react with and neutralize acid gas in the exhaust stream forming a dry powder material.

Electric utility steam generating unit means a fossil fuel-fired combustion unit of more than 25 megawatts that serves a generator that produces electricity for sale. A unit that cogenerates steam and electricity and supplies more than one-third of its potential electric output capacity and more than 25 megawatts electrical output to any utility power distribution system for sale is considered an electric utility steam generating unit.

Electrostatic precipitator means an add-on air pollution control device used to capture particulate matter by charging the particles using an electrostatic field, collecting the particles using a grounded collecting surface, and transporting the particles into a hopper.

Emission limitation means any emission limit or operating limit.

Fabric filter means an add-on air pollution control device used to capture particulate matter by filtering gas streams through filter media, also known as a baghouse.

Federally enforceable means all limitations and conditions that are enforceable by the Administrator, including the requirements of 40 CFR parts 60 and 61, requirements within any applicable State implementation plan, and any permit requirements established under 40 CFR 52.21 or 51.18 and 51.24.

Firetube boiler means a boiler in which hot gases of combustion pass through the tubes and water contacts the outside surfaces of the tubes.

Fossil fuel means natural gas, petroleum, coal, and any form of solid, liquid, or gaseous fuel derived from such materials.

Gaseous fuel includes, but is not limited to, natural gas, process gas, refinery gas and biogas.

Heat input means heat derived from combustion of fuel in a boiler or process heater and does not include the heat input from preheated combustion air, recirculated flue gases, or exhaust gases from other sources such as gas turbines, internal combustion engines, kilns, etc.

Hot water heater means a closed vessel in which water is heated by combustion of gaseous fuel and is withdrawn for use external to the vessel at pressures not exceeding 160 pounds per square inch gauge (psig), including the apparatus by which the heat is generated and all controls and devices necessary to prevent water temperatures from exceeding 210°F (99°C).

Industrial boiler means a boiler used in manufacturing, processing, mining, and refining or any other industry to provide steam, hot water, and/or electricity.

Large gaseous fuel subcategory means any boiler or process heater that burns only gaseous fuels not combined with any liquid or solid fuels, has a rated capacity of greater than 10 MMBtu per hour heat input, and has an annual capacity factor of greater than 10 percent.

Large liquid fuel subcategory means any boiler or process heater that does not burn any solid fuel and burns any liquid fuel either alone or in combination with gaseous fuels, has a rated capacity of greater than 10 MMBtu per hour heat input, and has an annual capacity factor of greater than 10 percent.

Large solid fuel subcategory means any watertube boiler or process heater that burns any amount of solid fuel either alone or in combination with liquid or gaseous fuels, has a rated capacity of greater than 10 MMBtu per hour heat input, and has an annual capacity factor of greater than 10 percent.

Limited use gaseous fuel subcategory includes any boiler or process heater that burns only gaseous fuels not combined with any liquid or solid fuels, has a rated capacity of greater than 10 MMBtu per hour heat input, and has a federally enforceable annual average capacity factor of equal to or less than 10 percent.

Limited use liquid fuel subcategory includes any boiler or process heater that does not burn any solid fuel and burns any liquid fuel either alone or in combination with gaseous fuels, has a rated capacity of greater than 10 MMBtu per hour heat input, and has a federally enforceable annual average capacity factor of equal to or less than 10 percent.

Limited use solid fuel subcategory includes any boiler or process heater that burns any amount of solid fuel either alone or in combination with liquid or gaseous fuels, has a rated capacity of greater than 10 MMBtu per hour heat input, and has a federally enforceable annual average capacity factor of equal to or less than 10 percent.

Liquid fossil fuel means petroleum, distillate oil, residual oil and any form of liquid fuel derived from such material.

Liquid fuel includes, but is not limited to, distillate oil, residual oil, waste oil, and process liquids.

Natural gas means:

(1) A naturally occurring mixture of hydrocarbon and nonhydrocarbon gases found in geologic formations beneath the earth's surface, of which the principal constituent is methane; or

(2) Liquid petroleum gas, as defined by the American Society for Testing and Materials in ASTM D1835–82, ''Standard Specification for Liquid Petroleum Gases.''

Opacity means the degree to which emissions reduce the transmission of light and obscure the view of an object in the background.

Particulate matter means any finely divided solid or liquid material, other than uncombined water, as measured by the test methods specified under this subpart, or an alternative method.

Process heater means an enclosed device using controlled flame, and the unit's primary purpose is to transfer heat indirectly to a process stream (liquid, gas, or solid) or to a heat transfer material for use in a process unit instead of generating steam. Process heaters are devices in which the combustion gases do not directly come into contact with process materials.

Residual oil means crude oil, fuel oil numbers 1 and 2 that have a nitrogen content greater than 0.05 weight percent, and all fuel oil numbers 4, 5 and 6, as defined by the American Society for Testing and Materials in ASTM D396–78, ''Standard Specifications for Fuel Oils.''

Responsible official means responsible official as defined in § 70.2.

Small gaseous fuel subcategory includes any boiler or process heater that burns only gaseous fuels not combined with any liquid or solid fuels, and has a rated capacity of less than or equal to 10 MMBtu per hour heat input.

Small liquid fuel subcategory includes any boiler or process heater that does not burn any solid fuel, and burns any liquid fuel either alone or in combination with gaseous fuels, and has a rated capacity of less than or equal to 10 MMBtu per hour heat input.

Small solid fuel subcategory includes any firetube boiler that burns any amount of solid fuel either alone or in combination with liquid or gaseous fuels, and any other boiler or process heater that burns any amount of solid fuel either alone or in combination with liquid or gaseous fuels, and has a rated capacity of less than or equal to 10 MMBtu per hour heat input.

Solid fuel includes, but is not limited to, coal, wood, biomass, tires, plastics, and other nonfossil solid materials.

Total selected metals means the combination of the following metallic hazardous air pollutants: arsenic, beryllium, cadmium, chromium, lead, manganese, nickel and selenium.

Waste heat boiler means a device that recovers normally unused energy and converts it to usable heat. Waste heat boilers are also referred to as heat recovery steam generators.

Watertube boiler means a boiler in which water passes through the tubes and hot gases of combustion pass over the outside surfaces of the tubes.

Wet scrubber means any add-on air pollution control device that mixes an aqueous stream or slurry with the exhaust gases from a boiler or process heater to control emissions of particulate matter and/or to absorb and neutralize acid gases, such as hydrogen chloride.

Work practice standard means any design, equipment, work practice, or operational standard, or combination thereof, that is promulgated pursuant to section 112(h) of the Clean Air Act.

Tables to Subpart DDDDD of Part 63

As stated in § 63.7500, you must comply with the following applicable emission limits:

TABLE 1 TO SUBPART DDDDD OF PART 63—EMISSION LIMITS

For . . .	You must meet these emission limits . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory.	a. Emissions of particulate matter must not exceed 0.026 lb per MMBtu of heat input; or b. Emissions of total selected metals must not exceed 0.0001 lb per MMBtu of heat input. c. Emissions of hydrogen chloride must not exceed 0.02 lb per MMBtu of heat input. d. Emissions of mercury must not exceed 0.000003 lb per MMBtu of heat input.
2. Each new or reconstructed industrial, commercial, institutional boiler or process heater in the large liquid fuel subcategory.	a. Emissions of particulate matter must not exceed 0.03 lb per MMBtu of heat input. b. emissions of hydrogen chloride must not exceed 0.0005 lb per MMBtu of heat input.
3. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the limited use solid fuel subcategory.	a. Emissions of particulate matter must not exceed 0.026 lb per MMBtu of heat input; or b. Emissions of total selected metals must not exceed 0.0001 lb per MMBtu of heat input c. Emissions of hydrogen chloride must not exceed 0.02 lb per MMBtu of heat input. d. Emissions of mercury must not exceed 0.000003 lb per MMBtu of heat input.
4. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the limited use liquid fuel subcategory.	a. Emissions of particulate matter must not exceed 0.03 lb per MMBtu of heat input. b. Emissions of hydrogen chloride must not exceed 0.0009 lb per MMBtu of heat input.

TABLE 1 TO SUBPART DDDDD OF PART 63—EMISSION LIMITS—Continued

For . . .	You must meet these emission limits . . .
5. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the small solid fuel subcategory.	a. Emissions of particulate matter must not exceed 0.026 lb per MMBtu of heat input; or b. Emissions of total selected metals must not exceed 0.0001 lb per MMBtu of heat input. c. Emissions of hydrogen chloride must not exceed 0.02 lb per MMBtu of heat input. d. Emissions of mercury must not exceed 0.000003 lb per MMBtu of heat input.
6. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the small liquid fuel subcategory.	a. Emissions of particulate matter must not exceed 0.03 lb per MMBtu of heat input. b. emissions of hydrogen chloride must not exceed 0.0009 lb per MMBtu of heat input.
7. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory..	a. Emissions of particulate matter must not exceed 0.07 lb per MMBtu of heat input; or b. Emissions of total selected metals must not exceed 0.001 lb per MMBtu of heat input. c. Emissions of hydrogen chloride must not exceed 0.09 lb per MMBtu of heat input. d. Emissions of mercury must not exceed 0.000007 lb per MMBtu of heat input.
8. Each existing industrial, commercial, or institutional boiler or process heater in the limited use solid fuel subcategory.	a. Emissions of particulate matter must not exceed 0.21 lb per MMBtu of heat input; or b. Emissions of total selected metals must not exceed 0.001 lb per MMBtu of heat input.

As stated in § 63.7500, you must comply with the applicable operating limits:

TABLE 2.A TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS IN THE LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	You must meet these operating limits . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. An add-on contol other than a wet scrubber or a dry scrubber	i. Maintain opacity to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limits for particulate matter and mercury or the opacity level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the alternative emission limitation for total selected metals and the mercury emission limit; and ii. Maintain the fuel chlorine content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride.
	b. A fabric filter either alone or in combination with an add-on control other than a wet scrubber or a dry scrubber.	i. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained; and ii. Maintain the fuel chlorine content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride.

TABLE 2.A TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS IN THE LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must meet these operating limits . . .
	c. A wet scrubber	Maintain the minimum pH, pressure drop, and liquid flow-rate at or above the operating levels established during the performance test according to provisions in §63.7530(c) that demonstrated compliance with the emission limits for particulate matter, mercury, and hydrogen chloride or the levels established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limits for hydrogen chloride, mercury, and the alternative total selected metals emission limit.
	d. A wet scrubber in combination with a fabric filter.	i. Maintain the minimum pH, pressure drop, and liquid flow-rate of the wet scrubber at or above the operating levels established during the performance test according to provisions in §63.7530(c) that demonstrated compliance with the emission limits for particulate matter, hydrogen chloride, and mercury or the levels established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limits for hydrogen chloride, mercury, and the alternative total selected metals emission limit; and ii. Maintain the fabric filter operation such that the operating limit established for fabric filters in §63.7530(c)(6)(v) is maintained.
	e. A wet scrubber in combination with an electrostatic precipitator.	Maintain the minimum pH, pressure drop, and liquid flow-rate of the wet scrubber and the minimum voltage and secondary current or total power input of the electrostatic precipitator at or above the operating levels established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limits for particulate matter, hydrogen chloride, and mercury or the levels established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limits for hydrogen chloride, mercury, and the alternative total selected metals emission limit.
	f. A dry scrubber	i. Maintain the minimum sorbent injection rate of the dry scrubber at or above the operating levels established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride emissions; and ii. Maintain opacity to less than or equal to the operating level established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limits for particulate matter and mercury emissions or the opacity level established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the alternative emission limits for total selected metals and the mercury emission limit.

TABLE 2.A TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS IN THE LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must meet these operating limits . . .
	g. A dry scrubber in combination with a fabric filter.	i. Maintain minimum sorbent injection rate of the dry scrubber at or above the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride emissions; and ii. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained.
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or add-on controls for which you do not wish to take credit for any emission reduction of total selected metals or mercury.	i. Maintain the fuel total selected metals content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for total selected metals; and ii. Maintain the fuel chlorine content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride; and iii. Maintain the fuel mercury content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for mercury.
3. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory.	a. An add-on control other than a wet scrubber or a dry scrubber.	i. Maintain opacity to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limits for particulate matter and mercury or the opacity level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the alternative emission limit for total selected metals and the mercury emission limit; and ii. Maintain the fuel chlorine content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride.
	b. A fabric filter either alone or in combination with an add-on control other than a wet scrubber or a dry scrubber.	i. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained; and ii. Maintain the fuel chlorine content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride.
	c. A wet scrubber	Maintain the minimum pH, pressure drop, and liquid flow-rate at or above the operating levels established during the performance test according to provisions in § 63.7530(c) that demonstrated compliance with the emission limits for particulate matter, hydrogen chloride, and mercury emissions or the levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limits for hydrogen chloride, mercury, and the alternative total selected metals emission limit.

TABLE 2.A TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS IN THE LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must meet these operating limits . . .
	d. A wet scrubber in combination with a fabric filter.	i. Maintain the minimum pH, pressure drop, and liquid flow-rate of the wet scrubber at or above the operating levels established during the performance test according to provisions in § 63.7530(c) that demonstrated compliance with the emission limits for particulate matter, hydrogen chloride, and mercury emissions or the levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limits for hydrogen chloride, mercury, and the alternative total selected metals emission limit; and ii. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained.
	e. A wet scrubber in combination with an electrostatic precipitator.	Maintain the minimum pH, pressure drop, and liquid flow-rate of the wet scrubber and the minimum voltage and secondary current or total power input of the electrostatic precipitator at or above the operating levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limits for particulate matter, hydrogen chloride, and mercury emissions or the levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limits for hydrogen chloride, mercury, and the alternative total selected metals emission limit.
	f. A dry scrubber	i. Maintain the minimum sorbent injection rate of the dry scrubber at or above the operating levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride emissions; and ii. Maintain opacity to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limits for particulate matter and mercury or the opacity level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the alternative emission limit for total selected metals and the mercury emission limit.
	g. A dry scrubber in combination with a fabric filter.	i. Maintain minimum sorbent injection rate of the dry scrubber at or above the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride emissions; and ii. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained.

TABLE 2.A TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS IN THE LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must meet these operating limits . . .
4. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or add-on controls for which you do not wish to take credit for any emission reduction of total selected metals or mercury.	i. Maintain the fuel total selected metals content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for total selected metals; and ii. Maintain the fuel chlorine content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride; and iii. Maintain the fuel mercury content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for mercury.
5. Each existing industrial, commercial, or institutional boiler or process heater in the limited use solid fuel subcategory.	a. An add-on control other than a wet scrubber.	Maintain opacity to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for particulate matter or the operating level established during the performance test that demonstrated compliance with the alternative emission limit for total selected metals.
	b. A fabric filter either alone or in combination with an add-on control other than a wet scrubber.	i. Maintain opacity to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for particulate matter or the operating level established during the performance test that demonstrated compliance with the alternative emission limit for total selected metals; and ii. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained.
	c. A wet scrubber	Maintain the minimum pressure drop and liquid flow-rate at or above the operating levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for particulate matter emissions or the levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the alternative total selected metals emission limit.
	d. A wet scrubber in combination with a fabric filter.	i. Maintain the minimum pressure drop and liquid flow-rate at or above the operating levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for particulate matter emissions or the levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the alternative total selected metals emission limit; and ii. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained.

TABLE 2.A TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS IN THE LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must meet these operating limits . . .
	e. A wet scrubber in combination with an electrostatic c precipitator.	Maintain the minimum pressure drop and liquid flow-rate of the wet scrubber and the minimum voltage and secondary current of the electrostatic precipitator at or above the operating levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for particulate matter emissions or the levels established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the alternative total selected metals emission limit.
6. Each existing industrial, commercial, or institutional boiler or process heater in the limited use solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	Either no add-on controls for which you do not wish to take credit for any emission reduction of total selected metals.	Maintain the fuel total selected metals content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for total selected metals.

As stated in § 63.7500, you must comply with the following applicable operating limits:

TABLE 2.B TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS IN THE LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	You must meet these operating limits . . .
1. Each new or reconstructed industrial, commercial, institutional boiler or process heater in the large liquid fuel subcategory, the limited use liquid fuel subcategory, or the small liquid fuel subcategory (boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and gases and do not burn any residual oil are excluded from this operating limit).	a. An add-on control other than a wet scrubber or a dry scrubber.	i. Maintain opacity to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for particulate matter; and ii. Maintain the fuel chlorine content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride.
	b. A fabric filter either alone or in combination with an add-on control other than a wet scrubber or a dry scrubber.	i. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained; and ii. Maintain the fuel chlorine content to less than or equal to the operating level established during the performance test according to the provisions in § 63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride.
	c. A wet scrubber	Maintain the minimum pH, pressure drop, and liquid flow-rate at or above the operating levels established during the performance test according to provisions in § 63.7530(c) that demonstrated compliance with the emission limits for particulate matter emissions and hydrogen chloride emissions.
	d. A wet scrubber in combination with a fabric filter.	i. Maintain the minimum pH, pressure drop, and liquid flow-rate of the wet scrubber at or above the operating levels established during the performance test according to provisions in § 63.7530(c) that demonstrated compliance with the emission limits for particulate matter emissions and hydrogen chloride emissions; and ii. Maintain the fabric filter operation such that the operating limit established for fabric filters in § 63.7530(c)(6)(v) is maintained.

TABLE 2.B TO SUBPART DDDDD OF PART 63—OPERATING LIMITS FOR BOILERS AND PROCESS HEATERS IN THE LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must meet these operating limits . . .
	e. A wet scrubber in combination with an electrostatic precipitator.	Maintain the minimum pH, pressure drop, and liquid flow-rate of the wet scrubber and the minimum voltage and secondary current or total power input of the electrostatic precipitator at or above the operating levels established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limits for particulate matter emissions and hydrogen chloride emissions.
	f. A dry scrubber	i. Maintain the minimum sorbent injection rate of the dry scrubber at or above the operating level established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limits for hydrogen chloride emissions; and ii. maintain opacity to less than or equal to the operating level established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limit for particulate matter emissions.
	g. A dry scrubber in combination with a fabric filter.	i. Maintain the minimum sorbent injection rate of the dry scrubber at or above the operating level established during the performance test according to the provisions in §63.7530(c) that demonstrated compliance with the emission limit for hydrogen chloride emissions; and ii. Maintain the fabric filter operation such that the operating limit established for fabric filters in §63.7530(c)(6)(v) is maintained.

As stated in §63.7500, you must comply with the following applicable work practice standards:

TABLE 3 TO SUBPART DDDDD OF PART 63—WORK PRACTICE STANDARDS

For each . . .	You must . . .
1. New or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the large liquid fuel subcategory, or the large gaseous fuel subcategory.	Continuously monitor carbon monoxide emissions according to the procedures in §63.7525(a) to maintain carbon monoxide emissions at or below an exhaust concentration of 400 ppm by volume on a dry basis corrected to 3 percent oxygen. The averaging time shall be 1 calendar day.
2. New or reconstructed industrial, commercial, or institutional boiler or process heater in the limited use solid fuel subcategory, the limited use liquid fuel subcategory, or the limited use gaseous fuel subcategory.	Continuously monitor carbon monoxide emissions according to the procedures in §63.7525(a) to maintain carbon monoxide emissions at or below an exhaust concentration of 400 ppm by volume on a dry basis corrected to 3 percent oxygen. The averaging time shall be 1 calendar day.

As stated in §63.7520, you must comply with the following requirements for performance test for existing, new or reconstructed affected sources:

TABLE 4.A TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR PARTICULATE MATTER EMISSIONS OR TOTAL SELECTED METALS EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each new reconstructed, or existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. Any type of device	1. Select sampling ports location and the number of traverse points.	Method 1 of 40 CFR part 60, appendix A.	

TABLE 4.A TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR PARTICULATE MATTER EMISSIONS OR TOTAL SELECTED METALS EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
		ii. Determine velocity and volumetric flow-rate of the stack gas.	Either Method 2 in appendix A to part 60 of this chapter, Method 2F in appendix A to part 60 of this chapter, or Method 2G of appendix A to part 60 of this chapter..	
		iii. Determine oxygen and carbon dioxide concentrations of the stack gas.	Method 3A or 3B in appendix A to part 60 of this chapter.	
		iv. Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter.	
	b. Any type of device except positive pressure fabric filters.	Measure the particulate matter emission concentrations.	Method 5 in appendix A to part 60 of this chapter or Method 17 in appendix A to part 60 of this chapter.	
	c. Positive pressure fabric filters.	Measure the particulate matter emission concentrations.	Method 5D in appendix A to part 60 of this chapter	
	d. Any type of device	Convert emissions concentrations to lb per MMBtu emission rates.	The F-factor methodology in Method 19 in appendix A to part 60 of this chapter.	
2. Each new reconstructed, or existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, limited use solid fuel subcategory, or the small solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of particulate matter.	Any type of device	Measure the total selected metals emissions concentrations.	Method 29 in appendix A to part 60 of this chapter.	
3. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber.	i. Establish a site-specific maximum opacity level according to provisions in § 63.7530(c).	(1) Data from the continuous opacity monitoring system and the PM or total selected metals performance test.	(a) You must collect opacity monitoring data every 10 seconds during the entire period of the three-run PM or total selected metals performance test; and (b) Determine the maximum opacity level of all the 1-hour averages taken during the three-run performance test.
	b. A wet scrubber	i. Establish a site-specific minimum pressure drop and minimum liquid flow-rate operating limit for the wet scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the PM or total selected metals performance test.	(a) You must collect pressure drop and liquid flow-rate data every 15 minutes during the entire period of the three-run PM or total selected metals performance test; and (b) determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	c. A wet scrubber in combination with a fabric filter.	i. Establish a site-specific minimum pressure drop and liquid flow-rate operating limit for the wet scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the PM or total selected metals performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber every 15 minutes during the entire period of the three-run PM or total selected metals performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.

TABLE 4.A TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR PARTICULATE MATTER EMISSIONS OR TOTAL SELECTED METALS EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
	d. A wet scrubber in combination with an electrostatic precipitator.	i. Establish a site-specific minimum pressure drop and liquid flow-rate for the wet scrubber and minimum voltage and secondary current or total power input of the electrostatic precipitator according to the provisions in §63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors for the wet scrubber and from total current and voltage monitors for the electrostatic precipitator or and the PM or total selected metals performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber and secondary current and voltage or total power input for the electrostatic precipitator every 15 minutes during the entire period of the three-run PM or total selected metals performance test; and (b) Determine the average for each by computing the average of all 15-minute readings taken during the test run.
4. Each new or reconstructed industrial, commercial, institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in total selected metals.	i. Establish a site-specific maximum inlet fuel total selected metals content operating limit according to the provisions in §63.7530(c).	(1) The fuel total selected metals content analysis results and the calculations done according to the provisions in §63.7530(c).	(a) You must collect one sample of the worst-case fuel stream entering the boiler or process heater for each test run during the three-run performance test; and (b) Determine the total selected metals content and heating value of the sample according to your site-specific test plan as required in §63.7520(a); and (c) Determine the maximum total selected metals content operating limit according to the procedures in §63.7530(c).
5. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory or the limited use solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber.	i. Establish a site-specific maximum opacity level according to provisions in §63.7530(c).	(1) Data from the continuous opacity monitoring system and the PM or total selected metals performance test.	(a) You must collect opacity monitoring data every 10 seconds during the entire period of the three-run PM or total selected metals performance test; and (b) Determine the maximum opacity level for all the 1-hour averages taken during the three-run performance test.
	b. A wet scrubber	i. Establish a site-specific minimum pressure drop and minimum liquid flow-rate operating limit for the wet scrubber according to the provisions in §63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the PM or total selected metals performance test.	(a) You must collect pressure drop and liquid flow-rate data every 15 minutes during the entire period of the three-run PM or total selected metals performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	c. A wet scrubber in combination with a fabric filter.	i. Establish a site-specific minimum pressure drop and liquid flow-rate operating limit for the wet scrubber according to the provisions in §63.7530(c)(3).	(1) Data from the pressure drop liquid flow-rate monitors and the PM or total selected metals performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber every 15 minutes during the entire period of the three-run PM or total selected metals performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.

TABLE 4.A TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR PARTICULATE MATTER EMISSIONS OR TOTAL SELECTED METALS EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
	d. A wet scrubber in combination with an electro-static precipitator.	i. Establish a site-specific minimum pressure drop and liquid flow-rate for the wet scrubber and minimum voltage and secondary current or total power input of the electrostatic precipitator according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors for the wet scrubber and from the current and voltage monitors for the electrostatic precipitator and the PM or total selected metals performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber and secondary current and voltage or total power input for the electrostatic precipitator every 15 minutes during the entire period of the three-run PM or total selected metals performance test; and b. Determine the average for each by computing the average of all 15-minute readings taken during each test run.
6. Each existing industrial, commercial or institutional boiler or process heater in the large solid fuel subcategory or the limited use solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in total selected metals.	i. Establish a site-specific maximum inlet fuel total selected metals content operating limit according to the provisions in § 63.7530(c).	(1) The fuel total selected metals content analysis results and the calculations done according to the provisions in § 63.7530(c).	(a) You must collect one sample of the worst-case fuel stream entering the boiler or process heater for each test run during the three-run performance test; and (b) Determine the total selected metals content and heating value of the sample according to your site-specific test plan as required in § 63.7520(a); and (c) Determine the maximum total selected metals content operating limit according to the procedures in § 63.7530(c).

As stated in § 63.7520, you must comply with the following requirements for performance tests for new or reconstructed affected sources:

TABLE 4.B TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR PARTICULATE MATTER EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large liquid fuel subcategory, the limited use liquid fuel subcategory, or the small liquid fuel subcategory (boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn residual oil are excluded from this performance test).	a. Any type of device	i. Select sampling ports location and the number of traverse points.	Method 1 of 40 CFR part 60 appendix A.	
		ii. Determine velocity and volumetri c flow-rate of the stack gas.	Either Method 2 in appendix A to part 60 of this chapter, Method 2F in appendix A to part 60 of this chapter or Method 2G of appendix A to part 60 of this chapter..	
		iii. Determine oxygen and carbon dioxide concentrations of the stack gas.	Method 3A or 3B in appendix A to part 60 of this chapter.	
		iv. Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter.	
		v. Measure the particulate matter emission concentrations.	Method 5 in appendix A to part 60 of this chapter or Method 17 in appendix A to part 60 of this chapter.	
		vi. Convert emissions concentrations to lb per MMBtu emission rates.	The F-factor methodology in Method 19 in appendix A to part 60 of this chapter.	

TABLE 4.B TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR PARTICULATE MATTER EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
	b. Positive pressure fabric filters.	Measure the particulate matter emission concentrations.	Method 5D in appendix A to part 60 of this chapter.	
	c. Either no add-on controls or an add-on control other than a wet scrubber.	i. Establish a site-specific maximum opacity level according to the provisions in § 63.7530(c).	(1) Data from the continuous opacity monitoring system and the PM performance test.	(a) You must collect opacity monitoring data every 10 seconds during the entire period of the three-run PM performance test; and (b) Determine the maximum opacity level for all the 1-hour averages taken during the three-run performance test.
	d. A wet scrubber	i. Establish a site-specific minimum pressure drop and minimum liquid flow-rate operating limit for the web scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the PM performance test.	(a) You must collect pressure drop and liquid flow-rate data every 15 minutes during the entire period of the three-run PM performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	e. A wet scrubber in combination with a fabric filter.	i. Establish a site-specific minimum pressure drop and liquid flow-rate operating limit for the set scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the PM performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber every 15 minutes during the entire period of the three-run PM performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	f. A wet scrubber in combination with an electrostatic precipitator.	i. Establish a site-specific minimum pressure drop and liquid flow-rate operating limit for the wet scrubber and a site-specific minimum voltage and secondary or total power input current operating limit for the electrostatic precipitator according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors for the wet scrubber and from the current and voltage monitors for the electrostatic precipitator and the PM performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber and secondary current and voltage data or total power input for the electrostatic precipitator every 15 minutes during the entire period of the three-run PM performance test; (b) Determine the average for each by computing the average of all 15-minute readings taken during each test run.

As stated in § 63.7520, you must comply with the following requirements for performance tests for existing, new or reconstructed affected sources:

TABLE 4.C TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR HYDROGEN CHLORIDE EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USED, OR SMALL SOLID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, limited use solid fuel subcategory, or small solid fuel subcategory and each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory.	a. Any type of device	i. Select sampling ports location and the number of traverse points.	Method 1 of 40 CFR part 60 appendix A.	
		ii. Determine velocity and volumetric flow-rate of the stack gas.	Either Method 2 in appendix A to part 60 of this chapter, Method 2F in appendix A to part 60 of this chapter or Method 2G of appendix A to part 60 of this chapter.	
		iii. Determine oxygen and carbon dioxide concentrations of the stack gas.	Method 3A or 3B in appendix A to part 60 of this chapter.	
		iv. Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter.	
	b. Either no add-on controls or an add-on control other than a wet scrubber.	Measure the hydrogen chloride emissions concentrations.	Method 26 in appendix A to part 60 of this chapter.	
	c. A wet scrubber	Measure the hydrogen chloride emissions concentrations.	Method 26A in appendix A to part 60 of this chapter.	
	d. Any type of device	Convert emissions concentrations to lb per MMBtu emission rates.	The F-factor methodology in Method 19 in appendix A to part 60 of this chapter.	
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber or a dry scrubber.	i. Establish a site-specific maximum inlet fuel chlorine content operating limit according to the provisions in §63.7530(c).	(1) The fuel chlorine content analysis results and data from the hydrogen chloride performance test.	(a) You must collect one sample of the fuel stream entering the boiler or process heater for each test run during the three-run hydrogen chloride performance test; and (b) Determine the chlorine content and heating value of each fuel sample; and (c) Determine the maximum chlorine content operating limit according to the procedures in §63.7530(c) and the procedures in your site-specific test plan as required in §63.7520(a).
	b. A wet scrubber	i. Establish site-specific minimum pH, pressure drop, and liquid flow-rate operating limits for the wet scrubber according to the provisions in §63.7530(c)(3).	(1) Data from the pH, presure drop, and liquid flow-rate monitors and the hydrogen chloride performance test.	(a) You must collect pH, pressure drop, and liquid flow-rate data every 15 minutes during the entire period of the three-run hydrogen chloride performance test; and (b) Determine the average pH, pressure drop, and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	c. A dry scrubber	i. Establish site-specific minimum sorbent injection rate operating limit for the dry scrubber according to the provisions in §63.7530(c).	(1) Data from the sorbent injection rate monitors and the hydrogen chloride performance test.	(a) You must collect sorbent injection rate data every 15 minutes during the entire period of the three-run hydrogen chloride performance test; and (b) Determine the average sorbent injection rate of each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.

TABLE 4.C TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR HYDROGEN CHLORIDE EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USED, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
3. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber or a dry scrubber.	i. Establish a site-specific maximum inlet fuel chlorine content operating limit according to the provisions in § 63.7530(c).	(1) The fuel chlorine content analysis results and data from the hydrogen chloride performance test.	(a) You must collect one sample of the fuel stream entering the boiler or process heater for each test run during the three-run hydrogen chloride performance test; and (b) Determine the chlorine content and heating value of each fuel sample; and (c) Determine the maximum chlorine content operating limit according to the procedures in § 63.7530(c) and the procedures in your site-specific test plan as required in § 63.7520(a).
	b. A wet scrubber	i. Establish site-specific minimum pH, pressure drop, and liquid flow-rate operating limits for the wet scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pH, pressure drop, and liquid flow-rate monitors and the hydrogen chloride performance test.	(a) You must collect pH, pressure drop, and liquid flow-rate data every 15 minutes during the entire period of the three-run hydrogen chloride performance test; and (b) Determine the average pH, pressure drop, and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	c. A dry scrubber	i. Establish site-specific minimum sorbent injection rate operating limits for the dry scrubber according to the provisions in § 63.7530(c).	(1) Data from the sorbent injection rate monitors and the hydrogen chloride performance test.	(a) You must collect sorbent injection rate data every 15 minutes during the entire period of the three-run hydrogen chloride performance test; and (b) Determine the average sorbent injection rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.

As stated in § 63.7520, you must comply with the following requirements for performance tests for new or reconstructed affected sources:

TABLE 4.D TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR HYDROGEN CHLORIDE EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large liquid fuel subcategory, the limited use liquid fuel subcategory, or the small liquid fuel subcategory (boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn residual oil are excluded from this performance test).	a. Any type of device	i. Select sampling ports location and the number of traverse points.	Method 1 of 40 CFR part 60 appendix A.	
		ii. Determine velocity and volumetric flow-rate of the stack gas.	Either Method 2 in appendix A to part 60 of this chapter, Method 2F in appendix A to part 60 of this chapter or Method 2G of appendix A to part 60 of this chapter.	

TABLE 4.D TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR HYDROGEN CHLORIDE EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
		iii. Determine oxygen and carbon dioxide concentrations of the stack gas.	Method 3A or 3B in appendix A to part 60 of this chapter.	
		iv. Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter.	
	b. Either no add-on controls or an add-on control other than a wet scrubber.	Measure the hydrogen chloride emissions concentrations.	Method 26 in appendix A to part 60 of this chapter.	
	c. A wet scrubber	Measure the hydrogen chloride emissions concentrations.	Method 26A in appendix A to part 60 of this chapter.	
	d. Any type of device	Convert emissions concentrations to lb per MMBtu emission rates.	The F-factor methodology in Method 19 in appendix A to part 60 of this chapter..	
	e. Either no add-on controls or an add-on control other than a wet scrubber or a dry scrubber.	i. Establish a site-specific maximum inlet fuel chlorine content operating limit according to the provisions in § 63.7530(c).	(1) The fuel chlorine content analysis results and data from the hydrogen chloride performance test.	(a) You must collect one sample of the fuel stream entering the boiler or process heater from each test run during the three-run hydrogen chloride performance test; and (b) Determine the chlorine content and heating value of each fuel sample; and (c) Determine the average chlorine content operating limit according to the procedures in § 63.7530(c) and the procedures in your site-specific test plan as required in § 63.7520(a).
	f. A wet scrubber	i. Establish site-specific minimum pH, pressure drop, and liquid flow-rate operating limits for the wet scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pH, pressure drop, and liquid flow-rate monitors and the hydrogen chloride performance test.	(a) You must collect pH, pressure drop, and liquid flow-rate data every 15 minutes during the entire period of the three-run hydrogen chloride performance test; and (b) Determine the average pH, pressure drop, and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	g. A dry scrubber	i. Establish site-specific minimum sorbent injection rate operating limit for the dry scrubber according to the provisions in § 63.7530(c).	(1) Data from the sorbent injection rate monitors and the hydrogen chloride performance test.	(a) You must collect sorbent injection rate data every 15 minutes during the entire period of the three-run hydrogen chloride performance test; and (b) Determine the average sorbent injection rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.

As stated in § 63.7520, you must comply with the following requirements for performance test for existing, new or reconstructed affected sources:

TABLE 4.E TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR MERCURY EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE OF SMALL SOLID FUEL SUBCATERGORIES

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each new reconstructed, or existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. Any type of device	i. Select sampling ports location and the number of traverse points.	Method 1 of 40 CFR part 60, appendix A.	

TABLE 4.E TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR MERCURY EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE OF SMALL SOLID FUEL SUBCATERGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
		ii. Determine velocity and volumetric flow-rate of the stack gas.	Either Method 2 in appendix A to part 60 of this chapter, Method 2F in appendix A to part 60 of this chapter, or Method 2G of appendix A to part 60 of this chapter.	
		iii. Determine oxygen and carbon dioxide concentrations of the stack gas.	Method 3A or 3B in appendix A to part 60 of this chapter.	
		iv. Measure moisture content of the stack gas.	Method 4 in appendix A to part 60 of this chapter.	
		v. Convert emissions concentrations to lb per MMBtu emission rates.	The F-factor methodology in Method 19 in appendix A to part 60 of this chapter.	
2. each new reconstructed, or existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, limited use solid fuel subcategory, or the small solid fuel subcategory that has a rated heat input capacity of less than 250 MMBtu per hour.	Any type of device	Measure the mercury emissions concentrations.	Method 29 in appendix A to part 60 of this chapter.	
3. Each new reconstructed, or existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory or limited use solid fuel subcategory that has a rated heat input capacity of greater than 250 MMBtu per hour.	Any type of device	Measure the mercury emissions concentrations.	.....	DRAFT ASTM Z65907 ''Standard Method for Both Speciated and Elemental Mercury Determination.
4. Each new reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber.	i. Establish a site-specific maximum opacity level according to provisions in § 63.7530(c).	(1) Data from the continuous opacity monitoring system and the mercury performance test.	(a) You must collect opacity monitoring data every 10 seconds during the entire period of the three-run mercury performance test; and (b) determine the maximum opacity level of all the 1-hour averages taken during the three-run performance test.
	b. A wet scrubber	i. Establish a site-specific minimum pressure drop and minimum liquid flow-rate operating limit for the wet scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the mercury performance test.	(a) You must collect pressure drop and liquid flow-rate data every 15 minutes during the entire period of the three-run mercury performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	c. A wet scrubber in combination with a fabric filter.	i. Establish a site-specific minimum pressure drop and liquid flow-rate operating limit for the wet scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the mercury performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber every 15 minutes during the entire period of the three-run mercury performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.

TABLE 4.E TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR MERCURY EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE OF SMALL SOLID FUEL SUBCATERGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
	d. A wet scrubber in combination with an electrostatic precipitator.	i. Establish a site-specific minimum pressure drop and liquid flow-rate for the wet scrubber and minimum voltage and secondary current or total power input of the electrostatic precipitator according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors for the wet scrubber and from the current and voltage monitors for the electrostatic precipitator and the mercury performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber and secondary current and voltage or total power input for the electrostatic precipitator every 15 minutes during the entire period of the three-run mercury performance test; and (b) Determine the average for each by computing the average of all 15-minute readings taken during the test run.
5. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in mercury.	i. Establish a site-specific maximum inlet fuel mercury content operating limit according to the provisions in § 63.7530(c).	(1) The fuel mercury content analysis results and the calculations done according to the provisions in § 63.7530(c).	(a) You must collect one sample of the worst-case fuel stream entering the boiler or process heater for each test run during the three-run performance test; and (b) Determine the mercury content and heating value of the sample according to your site-specific test plan as required in § 63.7520(a); and (c) Determine the maximum mercury content operating limit according to the procedures in § 63.7530(c).
6. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber.	i. Establish a site-specific maximum opacity level according to provisions in § 63.7530 (c).	(1) Data from the continuous opacity monitoring system and the mercury performance test.	(a) You must collect opacity monitoring data every 10 seconds during the entire period of the three-run mercury performance test; and (b) Determine the maximum opacity level for all the 1-hour averages taken during the three-run performance test.
	b. A wet scrubber	i. Establish a site-specific minimum pressure drop and minimum liquid flow-rate operating limit for the wet scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the mercury performance test.	(a) You must collect pressure drop and liquid flow-rate data every 15 minutes during the entire period of the three-run mercury performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.
	c. A wet scrubber in combination with a fabric filter.	i. Establish a site-specific minimum pressure drop and liquid flow-rate operating limit for the wet scrubber according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors and the mercury performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber every 15 minutes during the entire period of the three-run mercury performance test; and (b) Determine the average pressure drop and liquid flow-rate for each individual test run in the three-run performance test by computing the average of all the 15-minute readings taken during the test run.

TABLE 4.E TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR PERFORMANCE TESTS FOR MERCURY EMISSIONS FROM BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE OF SMALL SOLID FUEL SUBCATERGORIES—Continued

For . . .	That is controlled with . . .	You must . . .	Using . . .	According to the following requirements . . .
	d. A wet scrubber in combination with an electro-static precipitator.	i. Establish a site-specific minimum pressure drop and liquid flow-rate for the wet scrubber and minimum voltage and secondary current or total power input of the electrostatic precipitator according to the provisions in § 63.7530(c)(3).	(1) Data from the pressure drop and liquid flow-rate monitors for the wet scrubber and from the current and voltage monitors for the electrostatic precipitator and the mercury performance test.	(a) You must collect pressure drop and liquid flow-rate data for the wet scrubber and secondary current and voltage or total power input for the electrostatic precipitator every 15 minutes during the entire period of the three-run mercury performance test; and (b) Determine the average for each by computing the average of all 15-minute readings taken during each test run.
	e. Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in mercury.	i. Establish a site-specific maximum inlet fuel mercury content operating limit according to the provisions in § 63.7530(c).	(1) The fuel mercury content analysis results and the calculations done according to the provisions in § 63.7530(c).	(a) You must collect one sample of the worst-case fuel stream entering the boiler or process heater for each test run during the three-run performance test; and (b) Determine the mercury content and heating value of the sample according to your site-specific test plan as required in § 63.7520(a); and (c) Determine the maximum mercury content operating limit according to the procedures in § 63.7530(c).

As stated in § 63.7530, you must show initial compliance with the emission limitations for affected sources according to the following:

TABLE 5.A TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER OR TOTAL SELECTED METALS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber.	i. 0.026 lb particulate matter per MMBtu heat input or 0.0001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and

TABLE 5.A TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER OR TOTAL SELECTED METALS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
			(2) You keep a record of the average site-specific opacity level for each test run over the three-run performance test during which particulate matter or total selected metals emissions did not exceed the emissions limit; or if the unit is controlled with a fabric filter, instead of establishing a site-specific opacity level you keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).
	b. A wet scrubber	i. 0.026 lb particulate matter per MMBtu heat input or 0.0001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which particulate matter or total selected metals emissions did not exceed the emissions limit.
	c. A wet scrubber in combination with a fabric filter.	i. 0.026 lb particulate matter per MMBtu heat input or 0.0001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentrations and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and

TABLE 5.A TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER OR TOTAL SELECTED METALS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	d. A wet scrubber in combination with an electrostatic precipitator.	i. 0.026 lb particulate matter per MMBtu heat input or 0.0001 lb total selected metals per MMBtu heat input.	(2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which particulate matter or total selected metals emissions did not exceed the emissions limit; and (3) You keep records of the installation and calibration data and the manufacturers certification of the bag leak detection system as required in § 63.7525(i). (1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber and the average secondary current and voltage or total power input of the electrostatic precipitator for each test run.
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in total selected metals.	i. 0.0001 lb total selected metals per MMBtu heat input.	(1) The calculated emissions using Equation 2 of § 63.7530(c) and converted to lb total selected metals per MMBtu heat input does not exceed the emission limit; and (2) You keep a record of the fuel analysis, calculations, and the maximum fuel total selected metals input at which you demonstrated. compliance.

TABLE 5.A TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER OR TOTAL SELECTED METALS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
3. Each existing industrial, or commercial, institutional boiler or process heater in the large solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber.	i. 0.07 lb particulate matter per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limits; and (2) You keep a record of the average site-specific opacity level for each test run over the 3-hour performance test during which particulate matter or total selected metals emissions did not exceed the emissions limit; or if the unit is controlled with a fabric filter, instead of establishing a site-specific opacity level you keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).
	b. A wet scrubber	i. 0.07 lb particulate matter per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which particulate matter or total selected metals emissions did not exceed the emissions limit.

TABLE 5.A TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER OR TOTAL SELECTED METALS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	c. Wet scrubber in combination with a fabric filter.	i. 0.07 lb particulate matter per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which particulate matter or total selected metals emissions did not exceed the emissions limit; and (3) You keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).
	d. A wet scrubber in combination with an electrostatic precipitator.	i. 0.07 lb particulate matter per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber and the average secondary current and voltage or total power input of the electrostatic precipitator for each test run.

TABLE 5.A TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER OR TOTAL SELECTED METALS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	e. Either no add-on controls or an add-on control other than a wet scrubber.	i. 0.21 lb particulate matter per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific opacity level for each test run over the 3-hour performance test during which particulate matter or total selected metals emissions did not exceed the emissions limit; or if the unit is controlled with a fabric filter, instead of establishing a site-specific opacity level you keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).
	f. A wet scrubber	i. 0.21 lb particulate matter per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which particulate matter or total selected metals emissions did not exceed the emissions limit.

TABLE 5.A TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER OR TOTAL SELECTED METALS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	g. A wet scrubber in combination with a fabric filter.	i. 0.21 lb particulate matter per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which particulate matter of total selected metals emissions did not exceed the emissions limit; and (3) You keep records of the installation and calibration data and the manufacture's certification of the bag leak detection system as required in § 63.7525(i).
	h. A wet scrubber in combination with an electrostatic precipitator.	i. 0.21 lb particulate matter per MMBtu heat input or 0.001 lb total selected metals per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; or the average emissions in units of lb total selected metals per MMBtu heat input measured using total selected metals emission concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber and the average secondary current and voltage or total power input of the electrostatic precipitator for each test run.

TABLE 5.A TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER OR TOTAL SELECTED METALS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
4. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory or the limited use solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in total selected metals.	i. 0.001 lb total selected metals per MMBtu heat input.	(1) The calculated emissions using Equation 2 of § 63.7530(c) and converted to lb total selected metals per MMBtu heat input does not exceed the emission limit; and (2) You keep a record of the fuel analysis, calculations, and the maximum fuel total selected metals input at which you demonstrated compliance.

As stated in § 63.7530, you must show initial compliance with the emission limitations for affected sources according to the following:

TABLE 5.B TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large liquid fuel subcategory, the limited use liquid fuel subcategory or the small liquid fuel subcategory (boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn any residual oil are excluded from this requirement).	a. Either no reconstructed add-on controls or an add-on control other than a scrubber.	i. 0.03 lb particulate matter per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBTU heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific opacity level for each test run over the three-run performance test during which particulate matter emissions did not exceed the emissions limit; or if the unit is controlled with a fabric filter, instead of establishing a site-specific opacity level you keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).
	b. A wet scrubber	i. 0.03 lb particulate matter per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which particulate matter emissions did not exceed the emissions limit.

TABLE 5.B TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR PARTICULATE MATTER FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	c. A wet scrubber in combination with a fabric filter.	i. 0.03 lb particulate matter per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which particulate matter emissions did not exceed the emissions limit; and (3) You keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).
	d. A wet scrubber in combination with an electrostatic precipitator.	i. 0.03 lb particulate matter per MMBtu heat input.	(1) The average emissions in units of lb particulate matter per MMBtu heat input, measured using PM emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber and the average secondary current and voltage or total power input of the electrostatic precipitator for each test run over the three-run performance test during which particulate matter emissions did not exceed the emissions limit.
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in one of the liquid fuel subcategories that burns only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels.	a. Any type of device	i. 0.03 lb particulate matter per MMBtu heat input.	(1) You submit a signed statement in the Notification of Compliance Status report required in § 63.7545(e) that indicated you burn only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels; and (2) You keep records, as required in § 63.7555, that demonstrate that you burn only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels.

As stated in § 63.7530, you must show initial compliance with the emission limitations for affected sources according to the following:

TABLE 5.C TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR HYDROGEN CHLORIDE FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber or a dry scrubber.	i. 0.02 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific fuel chlorine content level for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
	b. A wet scrubber	i. 0.02 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pH, pressure drop, and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
	c. A dry scrubber	i. 0.02 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific sorbent injection rate of the dry scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the limited use solid fuel subcategory or the small solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber or a dry scrubber.	i. 0.02 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific fuel chlorine content level for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.

TABLE 5.C TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR HYDROGEN CHLORIDE FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	b. A wet scrubber	i. 0.02 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pH, pressure drop, and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
	c. A dry scrubber	i. 0.02 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific sorbent injection rate of the dry scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
3. Each existing industrial, commercial, institutional boiler or process heater in the large solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber or a dry scrubber.	i. 0.09 lb hydrogen chloride per MMBtu per heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific fuel chlorine content level for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
	b. A wet scrubber	i. 0.09 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pH, pressure drop, and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.

TABLE 5.C TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR HYDROGEN CHLORIDE FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	c. A dry scrubber	i. 0.09 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific sorbent injection rate of the dry scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.

As stated in § 63.7530, you must show initial compliance with the emission limitations for affected sources according to the following:

TABLE 5.D TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR HYDROGEN CHLORIDE FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
1. Each new or reconstructed commercial, or industrial, boiler or process heater in the liquid fuel subcategory (boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn any residual oil are excluded from this requirement).	a. Either no add-on controls or an add-on control other than a wet scrubber or a dry scrubber.	i. 0.0005 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific fuel chlorine content level for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
	b. A wet scrubber	i. 0.0005 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pH, pressure drop, and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.

TABLE 5.D TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR HYDROGEN CHLORIDE FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	c. A dry scrubber	i. 0.0005 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific sorbent injection rate of the dry scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large limited use liquid fuel subcategory or the small liquid fuel subcategory (boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn any residual oil are excluded from this requirement).	a. Either no add-on controls or an add-on control other than a web scrubber or a dry scrubber.	i. 0.0009 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific fuel chlorine content level for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
3. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the limited use liquid fuel subcategory or the small liquid fuel subcategory (boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and other gases and do not burn any residual oil are excluded from this requirement).	a. A wet scrubber	i. 0.0009 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pH, pressure drop, and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.

TABLE 5.D TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR HYDROGEN CHLORIDE FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	b. A dry scrubber	i. 0.0009 lb hydrogen chloride per MMBtu heat input.	(1) The average emissions in units of lb hydrogen chloride per MMBtu heat input, measured using hydrogen chloride emissions concentration and Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific sorbent injection rate of the dry scrubber for each test run over the three-run performance test during which hydrogen chloride emissions did not exceed the emissions limit.
4. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in one of the liquid fuel subcategories that burns only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels.	a. Any type of device	i. 0.0005 lb hydrogen chloride per MMBtu heat input for units in the large liquid fuel subcategory or 0.0009 lb hydrogen chloride per MMBtu heat input for units in the limited use or small liquid fuel subcategories.	(1) You submit a signed statement in the Notification of Compliance Status report required in § 63.7545(e) that indicates you burn only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels; and (2) You keep records, as required in § 63.7555, that demonstrate that you burn only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels.

As stated in § 63.7530, you must show initial compliance with the emission limitations for affected sources according to the following:

TABLE 5.E TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR MERCURY FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
1. Each new or reconstructed industrial, commercial or institutional boiler or process heater in large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. Either no add-on control or an add-on control other than wet scrubber.	i. 0.000003 lb merecury per MMBtu heat input.	(1) The average emissions in units of lb mercury per MMBtu heat input, measured using mercury emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific opacity level for each test run over the three-run performance test during which mercury emissions did not exceed the emissions limit; or if the unit is controlled with a fabric filter, instead of establishing a site-specific opacity level you keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).

TABLE 5.E TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR MERCURY FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	b. A wet scrubber	i. 0.000003 lb mercury per MMBtu heat input.	(1) The average emissions in units of lb mercury per MMBtu heat input, measured using mercury emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which mercury emissions did not exceed the emissions limit.
	c. A wet scrubber in combination with a fabric filter.	i. 0.000003 lb mercury per MMBtu heat input.	(1) The average emissions in units of lb mercury per MMBtu heat input, measured using mercury emissions concentrations and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which mercury emissions did not exceed the emissions limit; and (3) You keep records of the installation and calibration data and the manufacturers certification of the bag leak detection system as required in § 63.7525(i).
	d. A wet scrubber in combination with an electrostatic precipitator.	i. 0.000003 lb mercury per MMBtu heat input.	(1) The average emissions in units of lb mercury per MMBtu heat input, measured using mercury emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber and the average secondary current and voltage or total power input of the electrostatic precipitator for each test run.
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in mercury.	i. 0.000003 lb mercury per MMBtu heat input.	(1) The calculated emissions using Equation 3 of § 63.7530(c) and converted to lb mercury per MMBtu heat input does exceed the emission limit; and (2) You keep a record of fuel analysis, calculations, and the maximum fuel mercury input at which you demonstrated compliance.

TABLE 5.E TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR MERCURY FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
3. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber.	i. 0.000007 lb mercury MMBtu heat input.	(1) The average emissions in units of lb mercury per MMBtu heat input, measured using mercury emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific opacity level for each test run over the 3-hour performance test during which mercury emissions did not exceed the emissions limit; or if the unit is controlled with a fabric filter, instead of establishing a site-specific opacity level you keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).
	b. A wet scrubber	i. 0.000007 lb mercury per MMBtu heat input.	(1) The average emissions in units of lb mercury per MMBtu heat input, measured using mercury emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which mercury metals emissions did not exceed the emissions limit.
	c. A wet scrubber in combination with a fabric filter.	i. 0.000007 lb mercury per MMBtu heat input.	(1) The average emissions in units of lb mercury per MMBtu heat input, measured using mercury emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber for each test run over the three-run performance test during which mercury emissions did not exceed the emissions limit; and (3) You keep records of the installation and calibration data and the manufacturer's certification of the bag leak detection system as required in § 63.7525(i).

TABLE 5.E TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH EMISSION LIMITATIONS FOR MERCURY FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You have demonstrated initial compliance if . . .
	d. A wet scrubber in combination with an electrostatic precipitator.	i. 0.000007 lb mercury per MMBtu heat input.	(1) The average emissions in units of lb mercury per MMBtu heat input, measured using mercury emissions concentration and sections 12.2 and 12.3 of Method 19 of appendix A over the three-run performance test period, do not exceed the emission limit; and (2) You keep a record of the average site-specific pressure drop and liquid flow-rate of the wet scrubber and the average secondary current and voltage or total power input of the electrostatic precipitator for each test run.
4. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory (this is an option for those units that can demonstrate compliance on the basis of fuel analysis without controls).	a. Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in mercury.	i. 0.000007 per mercury per MMBtu heat input.	(1) The calculated mercury emissions using Equation 3 of § 63.7530(c) and converted to lb mercury per MMBtu heat input does not exceed the emission limit; and (2) You keep a record of the fuel analysis, calculations, and maximum fuel mercury input at which you demonstrated compliance.

As stated in § 63.7530, you must show initial compliance with the applicable work practice standards for affected sources according to the following:

TABLE 6 TO SUBPART DDDDD OF PART 63—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS

For each . . .	For the following work practice standard . . .	You have demonstrated initial compliance if . . .
1. New or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the large liquid fuel subcategory, or the large gaseous fuel subcategory.	a. Continuously monitor carbon monoxide emissions according to the procedures in § 63.7525(a) to maintain carbon monoxide emissions at or below an exhaust concentration of 400 ppm by volume on a dry basis corrected to 3 percent oxygen (the averaging time shall be one calendar day).	i. You have met work practice standard; and ii. As part of the Notification of Compliance Status, you submit the carbon monoxide emissions monitoring data recorded during the performance test collected according to the procedures required in § 63.7525(a); and iii. Report the maximum carbon monoxide emissions levels that occurred during the test that demonstrates the carbon monoxide concentrations were below the 400 ppm concentration.
2. New or reconstructed industrial, commercial, or institutional boiler or process heater in the limited use solid fuel subcategory, the limited use liquid fuel subcategory, or the limited use gaseous fuel subcategory.	a. Continuously monitor carbon monoxide emissions according to the procedures in § 63.7525(a) to maintain carbon monoxide emissions at or below an exhaust concentration of 400 ppm by volume on a dry basis corrected to 3 percent oxygen. The average time shall be 1 calendar day.	i. You have met the work practice standard; and ii. As part of the Notification of Compliance Status, you submit the carbon monoxide emissions monitoring data recorded during the performance test collected according to the procedures required in § 63.7525(a); and iii. Report the maximum carbon monoxide emissions levels that occurred during the test that demonstrates the carbon monoxide concentrations were below the 400 ppm concentration.

As stated in § 63.7540, you must show continuous compliance with the emission limitations for affected sources according to the following:

TABLE 7.A TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by . . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber or dry scrubber.	i. Opacity levels must not exceed the operating limit set during the PM or total selected metals and mercury performance tests and fuel chlorine content must not exceed the maximum operating limit set during the hydrogen chloride performance test according to the procedures in §63.7530(c).	(1) Collecting the opacity monitoring system data according to §§63.7525(b) and 63.7535; and (2) Reducing the opacity monitoring data to 6-minute averages; and (3) Maintaining the 3-hour block average opacity levels at or below the limit established during the performance test; or if the unit is controlled with a fabric filter, instead of maintaining opacity maintaining the operation of the fabric filter such that the requirements in §63.7540(a)(9) are met; and (4) Keeping daily records of fuel use and following the procedures in §63.7540(a) and, therefore, maintaining the fuel chlorine content level at or below the limit set during the performance test.
	b. A wet scrubber	i. pH, pressure drop, and liquid flow-rate must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data according to §§63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate levels at or above the limits established during the performance test.
	c. A wet scrubber in combination with a fabric filter.	i. pH, pressure drop, and liquid flow-rate for the wet scrubber and pressure drop for the fabric filter must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data for the wet scrubber and the pressure drop monitoring system data for the fabric filter according to §§63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate of the wet scrubber and the 3-hour average pressure drop of the fabric filter at or above the limits established during the performance test; and (4) Maintaining the fabric filter operation such that the requirements in 63.7540(a)(9) are met.

TABLE 7.A TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by . . .
	d. A wet scrubber in combination with an electrostatic precipitator.	i. pH, pressure drop, and liquid flow-rate for the wet scrubber and secondary current and voltage or total power input for the electrostatic precipitator must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data for the wet scrubber and the secondary current and voltage monitoring system data or total power input data for the electrostatic precipitator according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate of the wet scrubber and the 3-hour average secondary current and voltage or total power input of the electrostatic precipitator at or above the limits established during the performance test.
	e. A dry scrubber	i. Opacity levels must not exceed the operating limit set during the performance test and sorbent injection rate of the dry scrubber must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the opacity monitoring system data according to §§ 63.7525(b) and 63.7535; and (2) Reducing the opacity monitoring data to 6-minute averages; and (3) Maintaining the 3-hour block average opacity levels at or below the limit established during the performance test; and (4) Collecting the sorbent injection rate monitoring system data for the dry scrubber according to §§ 63.7525 and 63.7535; and (5) Reducing the data to 3-hour block averages; and (6) Maintaining the 3-hour average sorbent injection rate level at or above the limits established during the performance test.
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those that can demonstrate compliance on the basis of fuel analysis without controls).	Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in total selected metals.	Fuel total selected metals content must not exceed the operating limit set during the performance test according to the provisions in § 63.7530(a).	Keeping daily records of fuel use and follow the procedures in § 63.7540(a) and, therefore, maintain the fuel total selected metals content level at or below the limit set during the performance test.
3. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory, the limited use solid fuel subcategory, or the small solid fuel subcategory that can demonstrate compliance with the mercury emission limit on the basis of fuel analysis without controls).	Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in mercury.	Fuel mercury content must not exceed the operating limit set during the performance test according to the provisions in § 63.7530)(a).	Keeping daily records of fuel use and follow the procedures in § 63.7540(a) and, therefore, maintain the fuel mercury content level at or below the limit set during the performance test.

TABLE 7.A TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by . . .
4. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber or dry scrubber.	i. Opacity levels must not exceed the operating limit set during the PM or total selected metals and mercury performance test and fuel chlorine content must not exceed the maximum operating limit set during the hydrogen chloride performance test according to the procedures in §63.7530(c).	(1) Collecting the opacity monitoring system data according to §§63.7525(b) and 63.7535; and (2) Reducing the opacity monitoring data to 6-minute averages; and (3) Maintaining the 3-hour block average opacity levels at or below the limit established during the performance test; or if the unit is controlled with a fabric filter, instead of maintaining opacity maintaining the operation of the fabric filter such that the requirements in §63.7540(a)(9) are met; and (4) Keeping daily records of fuel use and following the procedures in §63.7540(a) and, therefore, maintaining the fuel chlorine content level at or below the limit set during the performance test.
	b. A wet scrubber	i. pH, pressure drop, and liquid flow-rate must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data according to §§63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate levels at or above the limits established during the performance test.
	c. A wet scrubber in combination with a fabric filter.	i. pH, pressure drop, and liquid flow-rate for the wet scrubber and pressure drop for the fabric filter must be greater than or equal to minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data for the wet scrubber and the pressure drop monitoring system data for the fabric filter according to §§63.7525 and 63.7535; and (2) Reducting the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate of the wet scrubber and the 3-hour average pressure drop of the fabric filter at or above the limits established during the performance test; and (4) Maintaining the fabric filter operation such that the requirements in §63.7540(a)(9) are met.

TABLE 7.A TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by . . .
	d. A wet scrubber in combination with an electrostatic precipitator.	i. pH, pressure drop, and liquid flow-rate for the wet scrubber and secondary current and voltage or total power input for the electrostatic precipitator must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data for the wet scrubber and the secondary current and voltage monitoring system data or total power input data for electrostatic precipitator according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate of the wet scrubber and the 3-hour average secondary current and voltage or total power input of the electrostatic precipitator at or above the limits established during the performance test.
	e. A dry scrubber	i. Opacity levels must not exceed the operating limit set during the performance test and sorbent injection rate of the dry scrubber must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the opacity monitoring system data according to §§ 63.7525(b) and 63.7535; and (2) Reducing the opacity monitoring data to 6-minute averages; and (3) Maintaining the 3-hour block average opacity levels at or below the limit established during the performance test; and (4) Collecting the sorbent injection rate monitoring system data for the dry scrubber according to §§ 63.7525 and 63.7535; and (5) Reducing the data to 3-hour block averages; and (6) Maintaining the 3-hour average sorbent injection rate levels at or above the limits established during the performance test.
5. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those that can demonstrate compliance on the basis of fuel analysis without controls).	Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in total selected metals.	Fuel total selected metals content must not exceed the operating limit set during the performance test according to the provisions in § 63.7530(a) keeping daily records of fuel use and following the procedures in § 63.7540(a) and, therefore, maintaining the fuel total selected metals content level at or below the limit set during the performance tests.	
6. Each existing industrial, commercial, or institutional boiler or process heater in the large solid fuel subcategory that can demonstrate compliance with the mercury emission limit on the basis of fuel analysis without controls.	Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in mercury.	Fuel mercury content must not exceed the operating limit set during the performance test according to the provisions in § 63.7530(a).	Keeping daily records of fuel use and following the procedures in § 63.7540(a) and, therefore, maintaining the fuel mercury content level at or below the limit set during the performance test.

TABLE 7.A TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by . . .
7. Each existing industrial, commercial, or institutional boiler or process heater in the limited use solid fuel subcategory.	a. Either no add-on controls or an add-on control other than a wet scrubber or dry scrubber.	i. Opacity levels must not exceed the operating limit set during the PM or total selected metals performance test according to the procedures in § 63.7530(c).	(1) Collecting the opacity monitoring system data according to §§ 63.7525(b) and 63.7535; and (2) Reducing the opacity monitoring data to 6-minute averages; and (3) Maintaining the 3-hour block average opacity levels at or below the limit established during the performance test; and (4) If the unit is controlled with a fabric filter, maintaining the operation of the fabric filter such that the requirements in § 63.7540(a)(9) are met.
	b. A wet scrubber	i. Pressure drop and liquid flow-rate must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pressure drop and liquid flow-rate monitoring system data according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pressure drop and liquid flow-rate levels at or above the limits established during the performance test.
	c. A wet scrubber in combination with a fabric filter.	i. Pressure drop and liquid flow-rate for the wet scrubber and pressure drop for the fabric filter must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pressure drop and liquid flow-rate monitoring system data for the wet scrubber and the pressure drop monitoring system data for the fabric filter according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pressure drop and liquid flow-rate of the wet scrubber and the 3-hour average pressure drop of the fabric filter at or above the limits established during the performance test; and (4) Maintaining the fabric filter operation such that the requirements in § 63.7540(a)(9) are met.
	d. A wet scrubber in combination with an electrostatic precipitator.	i. Pressure drop and liquid flow-rate for the wet scrubber and secondary current and voltage or total power input for the electrostatic precipitator must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pressure drop and liquid flow-rate monitoring system data for the wet scrubber and the secondary current and voltage monitoring system data or total power input data for the electrostatic precipitator according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pressure drop and liquid flow-rate of the wet scrubber and the 3-hour average secondary current and voltage or total power input of the electrostatic precipitator at or above the limits established during the performance test.

TABLE 7.A TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL SOLID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by . . .
	e. A dry scrubber	i. Opacity levels must not exceed the operating limit set during the performance test.	(1) Collecting the opacity monitoring system data according to §§ 63.7525(b) and 63.7535; and (2) Reducing the opacity monitoring data to 6-minute averages; and (3) Maintaining the 3-hour block average opacity levels at or below the limit established during the performance test.
8. Each existing industrial commercial, and institutional boiler or process in the limited use solid fuel subcategory that is complying with the alternative total selected metals emission limit instead of the particulate matter emission limit (this is an option for those that can demonstrate compliance on the basis of fuel analysis without controls).	Either no add-on controls or an add-on control for which you do not wish to take credit for reductions in total selected metals.	Fuel total selected metals content must not exceed the operating limit set during the performance test according to the provisions in § 63.7530(a).	Keeping daily records of fuel use and following the procedures in § 63.7540(a) and, therefore, maintaining the fuel total selected metals content level at or below the limit set during the performance test.

As stated in § 63.7540, you must show continuous compliance with the emission limitation for affected sources according to the following:

TABLE 7.B TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by. . .
1. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in the large liquid fuel subcategory, the limited use liquid fuel subcategory, or the small liquid fuel subcategory (boilers or process heaters in one of the liquid fuel subcategories that burn only fossil fuels and gases and do not burn any residual oil are excluded from this requirement).	a. Either no add-on controls or an add-on control other than a wet scrubber or a dry scrubber.	i. Opacity levels must not exceed the operating limit set during the performance test and fuel chlorine content must not exceed the maximum operating limit set during the performance test according to the procedures in § 63.7530(c).	(1) Collecting the opacity monitoring system data according to §§ 63.7525(b) and 63.7535; and (2) Reducing the opacity monitoring data to 6-minute averages; and (3) Maintaining the 3-hour block average opacity levels at or below the limit established during the performance test; or if the unit is controlled with a fabric filter, instead of maintaining opacity maintaining the operation of the fabric filter such that the requirements in § 63.7540(a)(9) are met; and (4) Keeping daily records of fuel use and following the procedures in § 63.7540(a) and, therefore, maintaining the fuel chlorine content level at or below the limit set during the performance test.
	b. A wet scrubber	i. pH, pressure drop, and liquid flow-rate must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate levels at or above the limits established during the performance test.

TABLE 7.B TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by. . .
	c. A wet scrubber in combination with a fabric filter.	i. pH, pressure drop, and liquid flow-rate for the wet scrubber and pressure drop for the fabric filter must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data for the wet scrubber and the pressure drop monitoring system data for the fabric filter according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate of the wet scrubber and the 3-hour average pressure drop of the fabric filter at or above the limits established during the performance test; and (4) Maintaining the operation of the fabric filter such that the requirements in § 63.7540(a)(9) are met.
	d. A wet scrubber in combination with an electrostatic precipitator.	i. pH, pressure drop, and liquid flow-rate for the wet scrubber and secondary current and voltage or total power input for the electrostatic precipitator must be greater than or equal to the minimum operating limits set during the performance test.	(1) Collecting the pH, pressure drop, and liquid flow-rate monitoring system data for the wet scrubber and the secondary current and voltage monitoring system data or total power input data for the electrostatic precipitator according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average pH, pressure drop, and liquid flow-rate of the wet scrubber and the 3-hour average secondary current and voltage or total power input of the electrostatic precipitator at or above the limits established during the performance test.
	e. A dry scrubber	i. Sorbent injection rate of the dry scrubber must be greater than or equal to the minimum operating limits set during the performance test and opacity levels must not exceed the operating limit set during the performance test.	(1) Collecting the sorbent injection rate monitoring system data according to §§ 63.7525 and 63.7535; and (2) Reducing the data to 3-hour block averages; and (3) Maintaining the 3-hour average sorbent injection rate levels at or above the limits established during the performance test; and (4) Collecting the opacity monitoring system data according to § 63.7525(b) and reducing the opacity monitoring data to 6-minute averages and maintaining the 3-hour average opacity levels at or below the limit established during the performance test.

TABLE 7.B TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH EMISSION LIMITATIONS FOR BOILERS OR PROCESS HEATERS IN LARGE, LIMITED USE, OR SMALL LIQUID FUEL SUBCATEGORIES—Continued

For . . .	That is controlled with . . .	For the following emission limitation . . .	You must demonstrate continuous compliance by. . .
2. Each new or reconstructed industrial, commercial, or institutional boiler or process heater in one of the liquid fuel subcategories that burns only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels.	a. Any type of device	i. 0.03 lb particulate matter per MMBtu heat input.	(1) Including a signed statement in each semiannual compliance report required in § 63.7550 that indicates you burned only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels during the compliance period; and (2) By keeping records, as required in § 63.7555, that demonstrate that you burn only liquid fossil fuels other than residual oil either alone or in combination with gaseous fuels.

As stated in § 63.7540, you must show continuous compliance with the applicable work practice standards for affected sources according to the following:

TABLE 8 TO SUBPART DDDDD OF PART 63—CONTINUOUS COMPLIANCE WITH WORK PRACTICE STANDARDS

For the following work practice standard . . .	You must demonstrate continuous compliance by . . .
1. Carbon monoxide limit for new or reconstructed industrial, commercial, or institutional boilers or process heaters in the large solid fuel subcategory, the large liquid fuel subcategory, the large gaseous fuel subcategory, the limited use solid fuel subcategory, the limited use liquid fuel subcategory, or the limited use gaseous fuel subcategory.	a. Continuously monitoring carbon monoxide levels according to §§ 63.7525(a) and 63.7535; and b. Maintaining a carbon monoxide level below an exhaust concentration of 400 ppm by volume on a dry basis at all times except during startup, shutdown, or malfunction; and c. Keeping records of carbon monoxide levels as required in § 63.7555(b). The averaging period shall be a calendar day.

As stated in § 63.7550, you must comply with the following requirements for reports:

TABLE 9 TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR REPORTS

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. Information required in § 63.7550(c)(1)–(11); and	Semiannually according to the requirements in § 63.7550(b).
	b. If there are no deviations from any emission limitation (emission limit and operating limit) that applies to you and there are no deviations from the requirements for work practice standards in Table 8 to this subpart that apply to you, a statement that there were no deviations from the emission limitations and work practice standards during the reporting period. If there were no periods during which the continuous monitoring systems, including continuous emissions monitoring system, continuous opacity monitoring system, and operating parameter monitoring systems, were out-of-control as specified in § 63.8(c)(7), a statement that there were no periods during which the continuous monitoring systems were out-of-control during the reporting period; and	See item 1.a of this table.
	c. If you have a deviation from any emission limitation (emission limit and operating limit) or work practice standard during the reporting period, the report must contain the information in § 63.7550(d). If there were periods during which the continuous monitoring systems, including continuous emissions monitoring system, continuous opacity monitoring system, and operating parameter monitoring systems, were out-of-control, as specified in § 63.8(c)(7), the report must contain the information in § 63.7550(e); and	See item 1.a of this table.

TABLE 9 TO SUBPART DDDDD OF PART 63—REQUIREMENTS FOR REPORTS—Continued

You must submit a(n)	The report must contain . . .	You must submit the report . . .
	d. If you had a startup, shutdown, or malfunction during the reporting period and you took actions consistent with your startup, shutdown, and malfunction plan, the compliance report must include the information in § 63.10(d)(5)(i).	See item 1.a of this table.
2. An immediate startup, shutdown, and malfunction report if you had a startup, shutdown, or malfunction during the reporting period that is not consistent with your startup, shutdown, and malfunction plan.	a. Actions taken for the event and the information in § 63.10(d)(5)(ii).	i. By fax or telephone within 2 working days after starting actions inconsistent with the plan; and ii. By letter within 7 working days after the end of the event unless you have made alternative arrangements with the permitting authority. (§ 63.10(d)(5)(ii)).

As stated in § 63.7565, you must comply with the applicable General Provisions according to the following:

TABLE 10 TO SUBPART DDDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDDD

Citation	Subject	Brief description	Explanation
§ 63.1	Applicability	Initial Applicability Determination; Applicability After Standard Established; Permit Requirements; Extensions, Notifications.	Yes.
§ 63.2	Definitions	Definitions for part 63 standards	Yes.
§ 63.3	Units and Abbreviations	Units and abbreviations for part 63 standards	Yes.
§ 63.4	Prohibited Activities	Prohibited Activities; Compliance date; Circumvention, Severability.	Yes.
§ 63.5	Construction/Reconstruction	Applicability; applications; approvals	Yes.
§ 63.6(a)	Applicability	i. GP apply unless compliance extension; and ii. GP apply to area sources that become major	Yes. Yes.
§ 63.6(b)(1)–(4)	Compliance Dates for New and Reconstructed sources.	Standards apply at effective date; 3 years after effective date; upon startup; 10 years after construction or reconstruction commences for 112(f).	Yes.
§ 63.6(b)(5)	Notification	Must notify if commenced construction or reconstruction after proposal.	Yes.
§ 63.6(b)(6)	[Reserved].		
§ 63.6(b)(7)	Compliance Dates for New and Reconstructed Area Sources That Become Major.	Area sources that become major must comply with major source standards immediately upon becoming major, regardless of whether required to comply when they were an area source.	Yes.
§ 63.6(c)(1)–(2)	Compliance Dates for Existing Sources	i. Comply according to date in subpart, which must be no later than 3 years after effective date; and ii. For 112(f) standards, comply within 90 days of effective date unless compliance extension.	Yes. Yes.
§ 63.6(c)(3)–(4)	[Reserved].		
§ 63.6(c)(5)	Compliance Dates for Existing Area Sources That Become Major.	Area sources that become major must comply with major source standards by date indicated in subpart or by equivalent time period (for example, 3 years).	Yes.
§ 63.6(d)	[Reserved].		
§ 63.6(e)(1)–(2)	Operation & Maintenance	i. Operate to minimize emissions at all times; and	Yes.
		ii. Correct malfunctions as soon as practicable; and iii. Operation and maintenance requirements independently enforceable information Administrator will use to determine if operation and maintenance requirements were met.	Yes. Yes.

TABLE 10 TO SUBPART DDDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDDD—Continued

Citation	Subject	Brief description	Explanation
§ 63.6(e)(3)	Startup, Shutdown, and Malfunction Plan (SSMP).	Requirement for SSM and startup, shutdown, malfunction plan. Content of SSMP	Yes.
§ 63.6(f)(1)	Compliance Except During SSM	Comply with emission standards at all times except during SSM.	Yes.
§ 63.6(f)(2)–(3)	Methods for Determining Compliance	Compliance based on performance test, operation and maintenance plans, records, inspection.	Yes.
§ 63.6(g)(1)–(3)	Alternative Standard	Procedures for getting an alternative standard	Yes.
§ 63.6(h)(1)	Compliance with Opacity/VE Standards	Comply with opacity/VE emission limitations at all times except during SSM.	Yes.
§ 63.6(h)(2)(i)	Determining Compliance with Opacity/Visible Emission (VE) Standards.	If standard does not state test method, use Method 9 for opacity and Method 22 for VE.	No.
§ 63.6(h)(2)(ii)	[Reserved].		
§ 63.6(h)(2)(iii)	Using Previous Tests to Demonstrate Compliance with Opacity/VE Standards.	Criteria for when previous opacity/VE testing can be used to show compliance with this rule.	Yes.
§ 63.6(h)(3)	[Reserved].		
§ 63.6(h)(4)	Notification of Opacity/VE Observation Date.	Notify Administrator of anticipated date of observation	No.
§ 63.6(h)(5)(i), (iii)–(v)	Conducting Opacity/VE Observations	Dates and Schedule for conducting opacity/VE observations.	No.
§ 63.6(h)(5)(ii)	Opacity Test Duration and Averaging Times.	Must have at least 3 hours of observation with thirty, 6-minute averages.	No.
§ 63.6(h)(6)	Records of Conditions During Opacity/VE Observations.	Keep records available and allow Administrator to inspect.	No.
§ 63.6(h)(7)(i)	Report continuous opacity monitoring system Monitoring Data from Performance Test.	Submit continuous opacity monitoring system data with other performance test data.	Yes.
§ 63.6(h)(7)(ii)	Using continuous opacity monitoring system instead of Method 9.	Can submit continuous opacity monitoring system data instead of Method 9 results even if rule requires Method 9, but must notify Administrator before performance test.	No.
§ 63.6(h)(7)(iii)	Averaging time for continuous opacity monitoring system during performance test.	To determine compliance, must reduce continuous opacity monitoring system data to 6-minute averages.	Yes.
§ 63.6(h)(7)(iv)	Continuous opacity monitoring system requirements.	Demonstrate that continuous opacity monitoring system performance evaluations are conducted according to §§ 63.8(e), continuous opacity monitoring system are properly maintained and operated according to 63.8(c) and data quality as § 63.8(d).	Yes.
§ 63.6(h)(7)(v)	Determining Compliance with Opacity/VE Standards.	Continuous opacity monitoring system is probative but not conclusive evidence of compliance with opacity standard, even if Method 9 observation shows otherwise. Requirements for continuous opacity monitoring system to be probative evidence-proper maintenance, meeting PS 1, and data have not been altered.	Yes.
§ 63.6(h)(8)	Determining Compliance with Opacity/VE Standards.	Administrator will use all continuous opacity monitoring system, Method 9, and Method 22 results, as well as information about operation and maintenance to determine compliance.	Yes.

TABLE 10 TO SUBPART DDDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDDD—Continued

Citation	Subject	Brief description	Explanation
§ 63.6(h)(9)	Adjusted Opacity Standard	Procedures for Administrator to adjust an opacity standard.	Yes.
§ 63.6(i)(1)–(14)	Compliance Extension	Procedures and criteria for Administrator to grant compliance extension.	Yes.
§ 63.6(j)	Presidential Compliance Exemption	President may exempt source category from requirement to comply with rule.	Yes.
§ 63.7(a)(1)	Performance Test Dates	Dates for Conducting Initial Performance Testing and Other Compliance Demonstrations.	Yes.
§ 63.7(a)(2)(i)	Performance Test Dates	New source with initial startup date before effective date has 180 days after effective date to demonstrate compliance.	Yes.
§ 63.7(a)(2)(ii)	Performance Test Dates	New source with initial startup date after effective date has 180 days after initial startup date to demonstrate compliance.	Yes.
§ 63.7(a)(2)(iii)	Performance Test Dates	i. Existing source subject to standard established pursuant to 112(d) has 180 days after compliance date to demonstrate compliance; and ii. Existing source with startup date after effective date has 180 days after startup to demonstrate compliance.	No. Yes.
§ 63.7(a)(2)(iv)	Performance Test Dates	Existing source subject to standard established pursuant to 112(f) has 180 days after compliance date to demonstrate compliance.	No.
§ 63.7(a)(2)(v)	Performance Test Dates	Existing source that applied for extension of compliance has 180 days after termination date of extension to demonstrate compliance.	Yes.
§ 63.7(a)(2)(vi)	Performance Test Dates	New source subject to standard established pursuant to 112(f) that commenced construction after proposal date of 112(d) standard but before proposal date of 112(f) standard, has 180 days after compliance date to demonstrate compliance.	No.
§ 63.7(a)(2)(vii–viii)	[Reserved].		
§ 63.7(a)(2)(ix)	Performance Test Dates	i. New source that commenced construction between proposal and promulgation dates, when promulgated standard is more stringent than proposed standard, has 180 days after effective date or 180 days after startup of source, whichever is later, to demonstrate compliance; and. ii. If source initially demonstrates compliance with less stringent proposed standard, it has 3 years and 180 days after the effective date of the standard or 180 days after startup of source, whichever is later, to demonstrate compliance with promulgated standard.	Yes. No.
§ 63.7(a)(3)	Section 114 Authority	Administrator may require a performance test under CAA Section 114 at any time.	Yes.
§ 63.7(b)(1)	Notification of Performance Test	Must notify Administrator 60 days before the test	Yes.
§ 63.7(b)(2)	Notification of Rescheduling	If rescheduling a performance test is necessary, must notify Administrator 5 days before scheduled date of rescheduled date.	Yes.

TABLE 10 TO SUBPART DDDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDDD—Continued

Citation	Subject	Brief description	Explanation
§ 63.7(c)	Quality Assurance/Test Plan	Requirement to submit site-specific test plan 60 days before the test or on date Administrator agrees with: i. Test plan approval procedures; and ii. Performance audit requirements; and iii. Internal and External QA procedures for testing.	Yes.
§ 63.7(d)	Testing Facilities	Requirements for test facilities	Yes.
§ 63.7(e)(1)	Conditions for Conducting Performance Tests.	i. Performance tests must be conducted under representative conditions; and ii. Cannot conduct performance tests during SSM; and iii. Not a deviation to exceed standard during SSM; and iv. Upon request of Administrator, make available records necessary to determine conditions of performance tests	No. Yes. Yes. Yes.
§ 63.7(e)(2)	Conditions for Conducting Performance Tests.	Must conduct according to rule and EPA test methods unless Administrator approves alternative.	Yes.
§ 63.7(e)(3)	Test Run Duration	i. Must have three separate test runs; and ii. Compliance is based on arithmetic mean of three runs; and iii. Conditions when data from an additional test run can be used	Yes. Yes. Yes.
§ 63.7(f)	Alternative Test Method	Procedures by which Administrator can grant approval to use an alternative test method.	Yes.
§ 63.7(g)	Performance Test Data Analysis	i. Must include raw data in performance test report; and ii. Must submit performance test data 60 days after end of test with the Notification of Compliance Status; and iii. Keep data for 5 years	Yes. Yes. Yes.
§ 63.7(h)	Waiver of Tests	Procedures for Administrator to waive performance test.	Yes.
§ 63.8(a)(1)	Applicability of Monitoring Requirements	Subject to all monitoring requirements in standard	Yes.
§ 63.8(a)(2)	Performance Specifications	Performance Specifications in appendix B of part 60 apply.	Yes.
§ 63.8(a)(3)	[Reserved].		
§ 63.8(a)(4)	Monitoring with Flares	Unless your rule says otherwise, the requirements for flares in § 63.11 apply.	No.
§ 63.8(b)(1)(i)–(ii)	Monitoring	Must conduct monitoring according to standard unless Administrator approves alternative.	Yes.
§ 63.8(b)(1)(iii)	Monitoring	Flares not subject to this section unless otherwise specified in relevant standard.	No.
§ 63.8(b)(2)–(3)	Multiple Effluents and Multiple Monitoring Systems.	i. Specific requirements for installing monitoring systems; and ii. Must install on each effluent before it is combined and before it is released to the atmosphere unless Administrator approves otherwise; and iii. If more than one monitoring system on an emission point, must report all monitoring system results, unless one monitoring system is a backup.	Yes. Yes. Yes.
§ 63.8(c)(1)	Monitoring System Operation and Maintenance.	Maintain monitoring system in a manner consistent with good air pollution control practices.	Yes.
§ 63.8(c)(1)(i)	Routine and Predictable SSM	i. Follow the SSM plan for routine repairs. Keep parts for routine repairs readily available.	Yes.

TABLE 10 TO SUBPART DDDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDDD—Continued

Citation	Subject	Brief description	Explanation
		ii. Reporting requirements for SSM when action is described in SSM plan.	Yes.
§ 63.8(c)(1)(ii)	SSM not in SSMP	Reporting requirements SSM when action is not described in SSM plan.	Yes.
§ 63.8(c)(1)(iii)	Compliance with Operation and Maintenance Requirements.	i. How Administrator determines if source complying with operation and maintenance requirements; and ii. Review of source O&M procedures, records, Manufacturer's instructions, recommendations, and inspection of monitoring system.	Yes. Yes.
§ 63.8(c)(2)–(3)	Monitoring System Installation	i. Must install to get representative emission and parameter measurements; and ii. Must verify operational status before or at performance test.	Yes. Yes.
§ 63.8(c)(4)	Continuous Monitoring System (CMS) Requirements.	Continuous monitoring systems must be operating except during breakdown, out-of-control, repair, maintenance, and high-level calibration drifts.	No.
§ 63.8(c)(4)(i)	Continuous Monitoring System (CMS) Requirements.	Continuous opacity monitoring system must have a minimum of one cycle of sampling and analysis for each successive 10-second period and one cycle of data recording for each successive 6-minute period.	Yes.
§ 63.8(c)(4)(ii)	Continuous Monitoring System (CMS) Requirements.	Continuous emissions monitoring system must have a minimum of one cycle of operation for each successive 15-minute period.	No.
§ 63.8(c)(7)–(8)	Continuous monitoring systems Requirements.	Out-of-control periods, including reporting	Yes.
§ 63.8(d)	Continuous monitoring systems Quality Control.	i. Requirements for continuous monitoring systems quality control, including calibration, etc.; and ii. Must keep quality control plan on record for the life of the affected source. Keep old versions for 5 years after revisions.	Yes. Yes.
§ 63.8(e)	Continuous monitoring systems Performance Evaluation.	Notification, performance evaluation test plan, reports	Yes.
§ 63.8(f)(1)–(5)	Alternative Monitoring Method	Procedures for Administrator to approve alternative monitoring.	Yes.
§ 63.8(f)(6)	Alternative to Relative Accuracy Test	Procedures for Administrator to approve alternative relative accuracy tests for continuous emissions monitoring system.	No.
§ 63.8(g)(1)–(4)	Data Reduction	i. Continuous opacity monitoring system 6-minute averages calculated over at least 36 evenly spaced data points; and ii. Continuous emissions monitoring system 1-hour averages computed over at least 4 equally spaced data points.	Yes. Yes.
§ 63.8(g)(5)	Data Reduction	Data that cannot be used in computing averages for continuous emissions monitoring system and continuous opacity monitoring system.	No.
§ 63.9(a)	Notification Requirements	Applicability and State Delegation	Yes.
§ 63.9(b)(1)–(5)	Initial Notifications	i. Submit notification 120 days after effective date; and ii. Notification of intent to construct/reconstruct; and iii. Notification of commencement of construct/reconstruct; Notification of startup; and iv. contents of each	Yes. Yes. Yes. Yes.

TABLE 10 TO SUBPART DDDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDDD—Continued

Citation	Subject	Brief description	Explanation
§ 63.9(c)	Request for Compliance Extension	Can request if cannot comply by date or if installed BACT/LAER.	Yes.
§ 63.9(d)	Notification of Special Compliance Requirements for New Source.	For sources that commence construction between proposal and promulgation and want to comply 3 years after effective date.	Yes.
§ 63.9(e)	Notification of Performance Test	Notify Administrator 60 days prior	Yes.
§ 63.9(f)	Notification of VE/Opacity Test	Notify Administrator 30 days prior	Yes.
§ 63.9(g)	Additional Notifications When Using Continuous Monitoring Systems.	i. Notification of performance evaluation; and ii. Notification using continuous opacity monitoring system data; and iii. Notification that exceeded criterion for relative accuracy.	Yes. Yes. Yes.
§ 63.9(h)(1)–(6)	Notification of Compliance Status	i. Contents; and ii. Due 60 days after end of performance test or other compliance demonstration, except for opacity/VE, which are due 30 days after. iii. When to submit to Federal vs. State authority	Yes. Yes. Yes.
§ 63.9(i)	Adjustment of Submittal Deadlines	Procedures for Administrator to approve change in when notifications must be submitted.	Yes.
§ 63.9(j)	Change in Previous Information	Must submit within 15 days after the change	Yes.
§ 63.10(a)	Recordkeeping/Reporting	i. Applies to all, unless compliance extension; and ii. When to submit to Federal vx. State authority; and iii. Procedures for owners of more than 1 source	Yes. Yes. Yes.
§ 63.10(b)(1)	Recordkeeping/Reporting	i. General Requirements; and ii. Keep all records readily available; and iii. Keep for 5 years	Yes. Yes. Yes.
§ 63.10(b)(2)(i)–(v)	Records related to Startup, Shutdown, and Malfunction.	i. Occurrence of each of operation (process equipment); and ii. Occurrence of each malfunction of air pollution equipment; and iii. Maintenance on air pollution control equipment; and iv. Actions during startup, shutdown, and malfunction.	Yes. Yes. Yes. Yes.
§ 63.10(b)(2)(vi) and (x–xi)	Continuous monitoring systems Records.	i. Malfunctions, inoperative, out-of-control; and monitoring inoperative, out-of-systems control; and ii. Calibration checks; and iii. Adjustments, maintenance	Yes. Yes. Yes.
§ 63.10(b)(2)(vii)–(ix)	Records	i. Measurements to demonstrate compliance with emission limitations; and ii. Performance test, performance evaluation, and visible emission observation results; and iii. Measurements to determine conditions of performance tests and performance evaluations.	Yes. Yes. Yes.
§ 63.10(b)(2)(xii)	Records	Records when under waiver	Yes.
§ 63.10(b)(2)(xiii)	Records	Records when using alternative to relative accuracy test.	Yes.
§ 63.10(b)(2)(xiv)	Records	All documentation supporting Initial Notification and Notification of Compliance Status.	Yes.
§ 63.10(b)(3)	Records	Applicability Determinations	Yes.
§ 63.10(c)(1)–(6), (9)–(15)	Records	Additional Records for continuous monitoring systems.	Yes.

TABLE 10 TO SUBPART DDDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDDD—Continued

Citation	Subject	Brief description	Explanation
§ 63.10(c)(7)–(8)	Records	Records of excess emissions and parameter monitoring exceedances for continuous monitoring systems.	No.
§ 63.10(d)(1)	General Reporting Requirements	Requirement to report	Yes.
§ 63.10(d)(2)	Report of Performance Test Results	When to submit to Federal or State authority	Yes.
§ 63.10(d)(3)	Reporting Opacity or VE Observations	What to report and when	Yes.
§ 63.10(d)(4)	Progress Reports	Must submit progress reports on schedule if under compliance extension.	Yes.
§ 63.10(d)(5)	Startup, Shutdown, and Malfunction Reports.	Contents and submission	Yes.
§ 63.10(e)(1)–(2)	Additional continuous monitoring systems Reports.	i. Must report results for each CEM on a unit; and ii. Written copy of performance evaluation; and iii. Three copies of continuous opacity monitoring system performance evaluation.	Yes. Yes. Yes.
§ 63.10(e)(3)	Reports	Excess Emission Reports	No.
§ 63.10(e)(3)(i–iii)	Reports	Schedule for reporting excess emissions and parameter monitor exceedance (now defined as deviations).	No.
§ 63.10(e)(3)(iv–v)	Excess Emissions Reports	i. Requirement to revert to quarterly submission if there is an excess emissions and parameter monitor exceedance (now defined as deviations); and ii. Provisions to request semiannual reporting after compliance for one year; and iii. Submit report by 30th day following end of quarter or calendar half; and iv. If there has not been an exceedance or excess emission (now defined as deviations), report contents is a statement that there have been no deviations.	No. No. No. No.
§ 63.10(e)(3)(iv–v)	Excess Emissions Reports	Must submit report containing all of the information in § 63.10(c)(5–13), § 63.8(c)(7–8).	No.
§ 63.10(e)(3)(vi–viii)	Excess Emissions Report and Summary Report.	i. Requirements for reporting excess emissions for continuous monitoring systems (now called deviations) ii. Requires all of the information in § 63.10(c)(5–13), § 63.8(c)(7–8).	No. No.
§ 63.10(e)(4)	Reporting continuous opacity monitoring system data.	Must submit continuous opacity monitoring system data with performance test data.	Yes.
§ 63.10(f)	Waiver for Recordkeeping/Reporting	Procedures for Administrator to waive	Yes.

TABLE 10 TO SUBPART DDDDD OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART DDDDD—Continued

Citation	Subject	Brief description	Explanation
§63.11	Flares	Requirements for flares	No.
§63.12	Delegation	State authority to enforce standards	Yes.
§63.13	Addresses	Addresses where reports, notifications, and requests are sent.	Yes.
§63.14	Incorporation by Reference	Test methods incorporated by reference	Yes.
§63.15	Availability of Information	Public and confidential information	Yes.

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Part III

Department of Housing and Urban Development

24 CFR Parts 25 and 203

FHA Single Family Mortgage Insurance; Lender Accountability for Appraisals; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 25 and 203

[Docket No. FR–4722–P–01]

RIN 2502–AH78

FHA Single Family Mortgage Insurance; Lender Accountability for Appraisals

AGENCY: Office of the Secretary, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule clarifies and strengthens HUD's regulations concerning the responsibilities of lenders approved by the Federal Housing Administration (FHA) in the selection of appraisers to perform appraisals on properties that will be the security for FHA insured mortgages. First, the proposed rule provides that lenders are to be held strictly accountable for the quality of appraisals on properties securing FHA insured mortgages. Further, the proposed rule specifically provides that lenders who submit appraisals to HUD that do not meet FHA requirements are subject to the imposition of sanctions by the HUD Mortgagee Review Board. The proposed rule would apply to both sponsor lenders, who underwrite loans, and loan correspondent lenders, who originate loans on behalf of their sponsors. HUD believes these proposed changes will help protect the FHA Insurance Fund, ensure better compliance with appraisal standards, and help to ensure that homebuyers receive an accurate statement of appraised value.

DATES: *Comments Due Date:* March 14, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the office of the Department's Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–2121 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

A. FHA Appraisals

The success of the Federal Housing Administration (FHA) single family mortgage insurance program, and HUD's ability to protect the FHA Insurance Fund, begins with the quality of appraisals on properties that secure FHA mortgages. Section 203(b)(1) of the National Housing Act (12 U.S.C. 1709(b)(10)) provides the method for calculating the maximum mortgage amount that FHA can insure. The calculations required by the statute are based on the appraised value of the property that is security for the mortgage. If a mortgagor defaults and the lender [1] conveys property title to HUD in exchange for payment of mortgage insurance benefits, FHA then must manage and sell the property in order to recoup its insurance loss. If the appraisal was accurate, FHA's loss will be minimal. However, if the appraisal was inaccurate or the appraiser neglected to report readily observable defects, FHA's losses could be increased.

HUD has implemented several policies to help ensure the accuracy and completeness of appraisals on properties securing FHA insured mortgages. For example, HUD has established the FHA Appraiser Roster (Appraiser Roster), which lists those appraisers who are eligible to perform FHA single family appraisals. To be eligible for placement on the Appraiser Roster, an appraiser must be state licensed or certified and pass a test on FHA appraisal methods. Further, the appraiser must not be listed on the General Services Administration's Suspension and Debarment List, HUD's Limited Denial of Participation List, or HUD's Credit Alert Interactive Voice Response System. HUD maintains the Appraiser Roster to provide a means by which HUD can ensure the competency of appraisers performing FHA appraisals. Placement on the Appraiser Roster means that an appraiser is qualified to perform FHA appraisals; it does not mean that the appraiser is approved by FHA, nor does it provide a guarantee or warranty that the appraiser's work will meet FHA standards. The FHA Appraiser Roster regulations are located at 24 CFR part 200, subpart G.

The FHA single family mortgage insurance regulations at 24 CFR 203.5(e)(1) provide that ''[a] mortgagee shall have the property appraised in accordance with such standards as the Secretary may prescribe.'' These standards are contained in HUD Handbook 4150.2, entitled ''Valuation Analysis for Home Mortgage Insurance,'' which each appraiser receives upon applying to be placed on the FHA Appraiser Roster. All appraisers on the Appraiser Roster are required to read and comply with the handbook in performing appraisals of properties that will be security for FHA insured mortgage loans (*see* § 200.206 of the Appraiser Roster regulations). A copy of Handbook 4150.2 may be downloaded from HUD's Client Information and Policy System (HUDCLIPS) internet homepage at *http://www.hudclips.org.*

B. Lender Responsibilities Concerning FHA Appraisals

Almost all FHA insured mortgage loans are originated under the Direct Endorsement process. Under this process, a lender selects an appraiser from the Appraiser Roster. The appraiser appraises the property and then submits an appraisal report and accompanying documentation to the lender. The lender's Direct Endorsement underwriter (or, in the case of a loan correspondent, its sponsor's Direct Endorsement underwriter) reviews the appraisal documentation. Under § 203.255(b)(5), when a mortgage is submitted to FHA under the Direct Endorsement process, the application must contain, among other things, ''[a]n underwriter certification, on a form prescribed by the Secretary, stating that the underwriter has personally reviewed the appraisal report ... and that the proposed mortgage complies with HUD underwriting requirements.'' Consequently, a lender is required, through its underwriter, to review the appraisal documentation to assure that the documentation meets the FHA requirements contained in HUD Handbook 4150.2 and amendatory issuances.

HUD's regulation at § 203.255(b) explicitly authorizes the Secretary to determine if there is any information indicating that any required certification (including the appraisal certification) ''is false, misleading or constitutes fraud or misrepresentation on the part of any party, or that the mortgage fails to meet any statutory or regulatory requirement.'' Further, the Mortgagee Review Board regulations at 24 CFR 25.9 authorize the imposition of

[1] This proposed rule uses the terms ''lender'' and ''mortgagee'' interchangeably.

administrative sanctions against a lender who submits such a false certification in connection with any FHA insured mortgage transaction. The responsibilities of a lender in ensuring the quality of FHA appraisals are also emphasized in the guidance issued by HUD through Mortgagee Letters. For example, Mortgagee Letter 94–54, issued on November 7, 1994, provides that ''mortgagees that select their own appraisers must accept responsibility, equally with the appraisers, for the integrity, accuracy, and thoroughness of the appraisals, and will be held accountable by HUD'' (this guidance was reiterated by FHA Mortgagee Letter 97–45, issued on November 25, 1997). Further, Mortgagee Letter 97–22, issued on May 20, 1997, reminds lenders ''that if the appraiser they selected provides a poor or even fraudulent appraisal which leads the Department to insure a mortgage at an inflated amount, the lender is held equally responsible with the appraiser for the violation.'' Copies of these Mortgagee Letters may be downloaded from HUD's Client Information and Policy System (HUDCLIPS) internet website at *http://www.hudclips.org.*

II. This Proposed Rule

A. Need for Proposed Rule

FHA has found that most appraisers perform appraisals in accordance with FHA standards. There are some instances, however, in which some lenders tacitly require appraisers to make the appraisal computations match the sales price to ensure that a home sale and mortgage loan closes for the appraiser to obtain additional business. Other instances have occurred, including recent episodes of predatory lending activity in several areas of the country, whereby lenders, realtors, investors, and others have participated in so-called property ''flipping'' schemes to inflate home prices and perpetuate sales that generate fees and charges to participants in the transaction. There are additional examples of fraudulent activity that could have been prevented if the underwriters had properly reviewed the appraisal reports.

This proposed rule would clarify and strengthen HUD's regulations concerning the responsibilities of lenders in assuring the quality of FHA appraisals. The proposed rule will ensure accountability of lenders for poor appraisals and thereby protect the FHA Insurance Fund, ensure better compliance with appraisal standards, and help to ensure that homebuyers receive an accurate statement of appraised value. The proposed changes would apply to both sponsor lenders, who underwrite loans, and loan correspondent lenders, who originate loans on behalf of their sponsors.

There are numerous tools that lenders may use to determine whether an appraisal satisfies FHA requirements. Reviewing appraisal documentation and performing quality assurance reviews are two such methods. New technology is available, such as Automated Valuation Model (AVM), which can be used to determine whether the value derived by an appraiser is within reason. A lender may wish to do business only with appraisers who carry errors and omissions (E&O) insurance. Such coverage may help in reducing possible schemes that result in fraud. There are numerous other steps that lenders can take to ensure that an appraisal package satisfies FHA requirements. The purpose of this proposed rule is not to mandate that lenders must follow a specific course of action to ensure compliance with FHA appraisal requirements. Each lender has the discretion to choose the means by which it will ensure such compliance. The purpose of the proposed rule is to require that a lender act to ensure appraisal quality and to emphasize that the lender will bear responsibility if an appraisal does not satisfy FHA requirements.

B. Proposed Changes to FHA Regulations

The proposed rule would make the following changes to the existing FHA regulations:

1. *Mortgagee Review Board (§ 25.9).* The proposed rule would clarify that a mortgagee is subject to administrative action by HUD's Mortgagee Review Board for submitting to HUD an appraisal that does not satisfy FHA appraisal requirements in connection with an insured mortgage transaction. Specifically, a new § 25.9(ee) would be added to explicitly include the obtaining and submitting of appraisals that do not satisfy FHA appraisal requirements among the list of actions subject to administrative sanction. As provided in § 25.3, which contains the definitions applicable to Mortgagee Review Board proceedings, the term ''mortgagee'' includes both underwriting and loan correspondent lenders.

2. *Lender accountability for appraisal (§ 203.5).* The proposed rule also would codify HUD's policy that lenders must ensure that the appraisals satisfy FHA appraisal requirements and are responsible, equally with appraisers, for the quality of appraisals on properties that secure FHA insured mortgage loans. The proposed rule would amend § 203.5, which describes the Direct Endorsement process, to specify that a lender must ensure that appraisals satisfy FHA requirements and is responsible for the quality of the appraisals. A Direct Endorsement mortgagee, and any of its loan correspondent lenders, that submit, or cause to be submitted, an appraisal or related documentation that does not satisfy FHA requirements may be sanctioned by the Mortgagee Review Board. The proposed rule would also amend § 203.5 to re-emphasize that a lender must select an appraiser listed on the FHA Appraiser Roster.

III. Issue Highlighted for Public Comment

While HUD invites public comment on all aspects of this proposed rule, it is particularly interested in comments regarding the possible consequences of the rule on the majority of FHA lenders and appraisers who comply with FHA standards. HUD believes that the proposed regulatory changes are necessary to ensure the accountability of lenders for poor appraisals and thereby protect the FHA Insurance Fund, ensure better compliance with appraisal standards, and help to ensure that homebuyers receive an accurate statement of appraised value. However, HUD recognizes that the proposed changes may also have unintended negative consequences on those lenders and appraisers who already comply with applicable FHA regulations and policies. Accordingly, HUD invites interested members of the public to submit their comments on such possible unintended impacts, as well as to offer suggestions on less burdensome methods to accomplish the stated goals of the proposed rule.

IV. Small Business Concerns Related to Mortgagee Review Board Actions Against Lenders

As discussed below in this preamble, HUD has determined that this rule will not have a significant economic impact on a substantial number of small entities. However, the proposed rule may nonetheless result in HUD's Mortgagee Review Board imposing an administrative sanction on a small lender or appraiser due to a submitted appraisal that is inconsistent with FHA requirements, or taking other appropriate enforcement action against a small lender or appraiser. With respect to such compliance efforts, HUD is cognizant that section 222 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (referred to as ''SBREFA'') requires the

Small Business and Agriculture Regulatory Enforcement Ombudsman to ''work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel.'' To implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices that are provided to small businesses at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], call 1–888–REG–FAIR (1–888–734–3247).

As HUD stated in its notice describing HUD's actions on the implementation of SBREFA, which was published on May 21, 1998 (63 FR 28214), HUD intends to work with the Small Business Administration to provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD.

V. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the Order (although not an economically significant regulatory action under the Order). Any changes made to this rule as a result of that review are identified in the docket file, which is available for public inspection in the office of the Department's Rules Docket Clerk, Office of General Counsel, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

Environmental Impact

This proposed rule would not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c), this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4332 *et seq.*).

Regulatory Flexibility Act

The Secretary has reviewed this proposed rule before publication, and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would not establish, or substantively modify, HUD policy and procedures regarding lender accountability for FHA appraisals. Rather, the regulatory changes will clarify HUD's existing policy of holding lenders equally responsible with appraisers for the quality of such appraisals. Further, the proposed changes are designed to ensure the integrity of appraisals on properties securing FHA insured mortgages. To the extent that the regulatory amendments have an economic impact, it will be on those lenders and appraisers who submit appraisals that are inconsistent with FHA requirements. Notwithstanding HUD's determination that this rule will not have a significant economic effect on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This proposed rule would not have federalism implications and would not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This proposed rule would not impose any federal mandates on any state, local, or tribal governments, or on the private sector, within the meaning of the Unfunded Mandates Reform Act of 1995.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance Numbers for the programs affected by this proposed rule are 14.117 and 14.133.

List of Subjects

24 CFR Part 25

Administrative practice and procedure, Loan programs—housing and community development, Organization and functions (government agencies).

24 CFR Part 203

Hawaiian Natives, Home improvement, Indians—lands, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements, Solar energy.

Accordingly, for the reasons described in the preamble, HUD proposes to amend 24 CFR parts 25 and 203 to read as follows:

PART 25—MORTGAGEE REVIEW BOARD

1. The authority citation for 24 CFR part 25 continues to read as follows:

Authority: 12 U.S.C. 1708(c), 1708(d), 1709(s), 1715b and 1735(f)–14; 42 U.S.C. 3535(d).

2. Amend § 25.9 by redesignating paragraph (ee) as paragraph (ff) and adding a new paragraph (ee) to read as follows:

§ 25.9 Grounds for an administrative action.

* * * * *

(ee) Submitting, or causing to be submitted, with an application for FHA mortgage insurance an appraisal, valuation condition sheet, or any other documentation relating to an appraisal that does not satisfy FHA requirements.

* * * * *

PART 203—SINGLE FAMILY MORTGAGE INSURANCE

3. The authority citation for 24 CFR part 203 continues to read as follows:

Authority: 12 U.S.C. 1709, 1710, 1715b, and 1715u; 42 U.S.C. 3535(d).

4. Amend § 203.5 by adding a sentence at the end of paragraph (e)(1)

and adding a new paragraph (e)(3) to read as follows:

§ 203.5 Direct Endorsement process.

* * * * *

(e) * * *

(1) * * * A mortgagee must select an appraiser whose name is on the FHA Appraiser Roster, in accordance with 24 CFR part 200, subpart G.

* * * * *

(3) A mortgagee and an appraiser must ensure that an appraisal and related documentation satisfy FHA appraisal requirements and shall bear equal responsibility for the quality of the appraisal in satisfying such requirements. A Direct Endorsement Mortgagee (and any of its loan correspondent lenders) that submits, or causes to be submitted, an appraisal or related documentation that does not satisfy FHA requirements is subject to administrative sanction by the Mortgagee Review Board pursuant to § 25.9 of this title.

Dated: December 3, 2002.

Mel Martinez,

Secretary.

[FR Doc. 03–539 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–27–P

Federal Register

Monday,
January 13, 2003

Part IV

Department of Housing and Urban Development

Redelegation of Authority to the Field Office Directors; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–01]

Regional Director—New England Region; Redelegation of Authority to the Field Office Director of the Hartford Field Office

AGENCY: Office of the Regional Director—New England Region, HUD.

ACTION: Notice of redelegation of authority to the Field Office Director of the Hartford Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authorities to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002). That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA). Pursuant to that delegation, Regional Directors have been delegated specific authorities pertaining to cross-program coordination, personnel management, administrative management, resource management, and representation regarding matters under their respective jurisdictions. That delegation also permitted the Regional Directors to redelegate certain of those operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be in writing and identify the specific authorities redelegated. In addition, prior to publication, each redelegation should be reviewed by the Regional Counsel for that jurisdiction, and by the Headquarters Office of Field Policy and Management. In this redelegation of authority, the Regional Director—New England Region redelegates to the Field Office Director of the Hartford Field Office certain operational management authorities, as specified below.

EFFECTIVE DATE: October 21, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—New England Region redelegates to the Field Office Director of the Hartford Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office Level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority of 67 FR 13790 (March 26, 2002), the Regional Director can trigger review by Headquarters through the Assistant Deputy for Field Management and Policy.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;
- Approving short-term details across program area lines (up to thirty days). The Regional Director may authorize an additional thirty days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Serving as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing, and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters, and the Office of Public Affairs;
- Administering the local office's web page and internet resources; and,
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director of the Hartford Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002). Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 12, 2002.

Kevin J. Keogh,

Regional Director—New England Region, Department of Housing and and Urban Development.

[FR Doc. 03–541 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–02]

Regional Director—New England Region; Redelegation of Authority to the Field Office Director of the Bangor Field Office

AGENCY: Office of the Regional Director—New England Region, HUD.

ACTION: Notice of redelegation of authority to the Field Office Director of the Bangor Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authorities to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002). That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA). Pursuant to that delegation, Regional Directors have been delegated specific authorities pertaining to cross-program coordination, personnel management, administrative management, resource management, and representation regarding matters under their respective jurisdictions. That delegation also permitted the Regional Directors to redelegate certain of those operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be in writing and identify the specific authorities redelegated. In addition, prior to publication, each redelegation should be reviewed by the Regional Counsel for that jurisdiction, and by the Headquarters Office of Field Policy and Management. In this redelegation of authority, the Regional Director—New England Region redelegates to the Field Office Director of the Bangor Field Office certain operational management authorities, as specified below.

EFFECTIVE DATE: November 12, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—New England Region redelegates to the Field Office Director of the Bangor Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office Level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;
- Approving short-term details across program area lines (up to thirty days). The Regional Director may authorize an additional thirty days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Serving as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters, and the Office of Public Affairs;
- Administering the local office's Web page and internet resources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director of the Bangor Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002). Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 12, 2002.

Kevin J. Keogh,

Regional Director—New England Region, Department of Housing and Urban Development.

[FR Doc. 03–542 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Regional Director—New England Region

[Docket No. FR–4806–D–03]

Regional Director—New England Region; Redelegation of Authority to the Field Office Director of the Manchester Field Office

AGENCY: Office of the Regional Director—New England Region, HUD.

ACTION: Notice of redelegation of authority to the Field Office Director of the Manchester Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authorities to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002). That delegation

provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA). Pursuant to that delegation, Regional Directors have been delegated specific authorities pertaining to cross-program coordination, personnel management, administrative management, resource management, and representation regarding matters under their respective jurisdictions. That delegation also permitted the Regional Directors to redelegate certain of those operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be in writing and identify the specific authorities redelegated. In addition, prior to publication, each redelegation should be reviewed by the Regional Counsel for that jurisdiction, and by the Headquarters Office of Field Policy and Management. In this redelegation of authority, the Regional Director '' New England Region redelegates to the Field Office Director of the Manchester Field Office certain operational management authorities, as specified below.

EFFECTIVE DATE: November 12, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—New England Region redelegates to the Field Office Director of the Manchester Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office Level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;
- Approving short-term details across program area lines (up to thirty days). The Regional Director may authorize an additional thirty days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Serving as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20% of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters, and the Office of Public Affairs;
- Administering the local office's Web page and internet resources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director of the Manchester Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002). Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 12, 2002.

Kevin J. Keogh,

Regional Director—New England Region, Department of Housing and Urban Development.

[FR Doc. 03–543 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–04]

Regional Director—New England Region; Redelegation of Authority to the Field Office Director of the Providence Field Office

AGENCY: Office of the Regional Director—New England Region, HUD.

ACTION: Notice of redelegation of authority to the Field Office Director of the Providence Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authorities to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002). That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX);

Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA). Pursuant to that delegation, Regional Directors have been delegated specific authorities pertaining to cross-program coordination, personnel management, administrative management, resource management, and representation regarding matters under their respective jurisdictions. That delegation also permitted the Regional Directors to redelegate certain of those operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be in writing and identify the specific authorities redelegated. In addition, prior to publication, each redelegation should be reviewed by the Regional Counsel for that jurisdiction, and by the Headquarters Office of Field Policy and Management. In this redelegation of authority, the Regional Director—New England Region redelegates to the Field Office Director of the Providence Field Office certain operational management authorities, as specified below.

EFFECTIVE DATE: November 12, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—New England Region redelegates to the Field Office Director of the Providence Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office Level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;
- Approving short-term details across program area lines (up to thirty days). The Regional Director may authorize an additional thirty days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Serving as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters, and the Office of Public Affairs;
- Administering the local office's Web page and internet resources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director of the Providence Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002). Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 12, 2002.

Kevin J. Keogh,

Regional Director—New England Region, Department of Housing and Urban Development.

[FR Doc. 03–544 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–05]

Regional Director—New England Region; Redelegation of Authority to the Field Office Director of the Burlington Field Office

AGENCY: Office of the Regional Director—New England Region, HUD.

ACTION: Notice of redelegation of authority to the Field Office Director of the Burlington Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authorities to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002). That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA). Pursuant to that delegation, Regional Directors have been delegated specific authorities pertaining to cross-program coordination, personnel management, administrative management, resource management, and representation regarding matters under their respective jurisdictions. That delegation also permitted the Regional

Directors to redelegate certain of those operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be in writing and identify the specific authorities redelegated. In addition, prior to publication, each redelegation should be reviewed by the Regional Counsel for that jurisdiction, and by the Headquarters Office of Field Policy and Management. In this redelegation of authority, the Regional Director—New England Region redelegates to the Field Office Director of the Burlington Field Office certain operational management authorities, as specified below.

EFFECTIVE DATE: November 12, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—New England Region redelegates to the Field Office Director of the Burlington Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office Level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;
- Approving short-term details across program area lines (up to thirty days). The Regional Director may authorize an additional thirty days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Serving as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters, and the Office of Public Affairs;
- Administering the local office's web page and internet resources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director of the Burlington Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002). Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 12, 2002.

Kevin J. Keogh,

Regional Director—New England Region, Department of Housing and Urban Development.

[FR Doc. 03–545 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–06]

Redelegation of Authority to Field Office Director Buffalo Field Office

AGENCY: Office of the Regional Director—Region II, HUD.

ACTION: Notice of redelegation of authority to Field Office Director—Buffalo, NY Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.) Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be *in writing* and identify the *specific authorities* redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, *prior* to signature and publication. In this redelegation of authority, the Regional Director—Region II redelegates certain operational

management authorities, as specified below to the Field Office Director—Buffalo Field Office.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region II redelegates to the Field Office Director—Buffalo Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director—Buffalo, Field Office;
- Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing, and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation.

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;
- Administering the local office's Web page and internet sources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Buffalo, Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

Marisel Morales,

Regional Director—Region II, Department of Housing and Urban Development.

[FR Doc. 03–546 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–07]

Redelegation of Authority to Field Office Director Albany Field Office

AGENCY: Office of the Regional Director—Region II, HUD.

ACTION: Notice of redelegation of authority to Field Office Director—Albany, NY Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.) Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be *in writing* and identify the *specific authorities* redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, *prior to* signature and publication. In this redelegation of authority, the Regional Director—Region II redelegates certain operational management authorities, as specified below to the Field Office Director—Albany Field Office.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments

or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region II redelegates to the Field Office Director—Albany Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director '' Albany, Field Office;
- Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing, and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;
- Administering the local office's Web page and internet sources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Albany, Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

Marisel Morales,

Regional Director—Region II, Department of Housing and Urban Development.

[FR Doc. 03–547 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–08]

Redelegation of Authority to Field Office Director; Newark Field Office

AGENCY: Office of the Regional Director '' Region II, HUD.

ACTION: Notice of redelegation of authority to Field Office Director—Newark, NJ Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See*, 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.) Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be *in writing* and identify the *specific authorities* redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, *prior to* signature and publication. In this redelegation of authority, the Regional Director—Region II redelegates certain operational management authorities, as specified below to the Field Office Director—Newark Field Office.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region II redelegates to the Field Office Director—Newark Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director—Newark, Field Office;
- Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing, and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;
- Administering the local office's Web page and internet sources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Newark, Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

Marisel Morales,

Regional Director—Region II, Department of Housing and Urban Development.

[FR Doc. 03–548 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–09]

Redelegation of Authority to Field Office Director; Camden Field Office

AGENCY: Office of the Regional Director—Region II, HUD.

ACTION: Notice of redelegation of authority to Field Office Director—Camden, NJ Field Office.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.) Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be *in writing* and identify the *specific authorities* redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, *prior to* signature and publication. In this redelegation of authority, the Regional Director—Region II redelegates certain operational management authorities, as specified below to the Field Office Director—Camden Field Office.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region II redelegates to the Field Office Director—Camden Field Office authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional

Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director—Camden, Field Office;
- Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing, and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20% of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;
- Administering the local office's Web page and internet sources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Camden, Field Office may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

Marisel Morales,

Regional Director—Region II, Department of Housing and Urban Development.

[FR Doc. 03–549 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–10]

Redelegation of Authority to Field Office Director—Richmond, VA; Baltimore, MD; Charleston, WV; Pittsburgh, PA; Washington, DC; and Wilmington, DE

AGENCY: Office of the Regional Director—Region III (Philadelphia, PA), HUD.

ACTION: Notice of redelegation of authority to Field Office Director—Richmond, VA; Baltimore, MD; Charleston, WV; Pittsburgh, PA; Washington, DC; and Wilmington, DE.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002). That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA). Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be in writing and identify the specific authorities redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, prior to signature and publication. In this redelegation of authority, the Regional Director—Region III (Philadelphia, PA) redelegates certain operational management authorities, as specified below to the Field Office Directors—Richmond, VA; Baltimore, MD; Charleston, WV; Pittsburgh, PA; Washington, DC; and Wilmington, DE.

EFFECTIVE DATE: October 18, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region III (Philadelphia, PA) redelegates to the Field Office Directors—Richmond, VA; Baltimore, MD; Charleston, WV; Pittsburgh, PA; Washington, DC; and Wilmington, DE authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

a. Developing and implementing Management Plans at the Field Office level;

b. Coordinating cross-program projects and Field Office Quality Management Reviews;

c. Preparing briefing papers and hot issues documents;

d. Leading disaster relief efforts; and

e. Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the

Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

a. Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Directors;

b. Approving short-term details across program area lines not to exceed thirty days. Regional Directors may authorize an additional 30 days;

c. Approving leave requests for managers and supervisors;

d. Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;

e. Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and

f. Managing and conducting labor-management relations

3. Administrative Management

a. Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

a. Managing the administrative budget, *e.g.*, training, equipment, *etc.*;

b. Approving program travel requests; and

c. Redistributing up to 20% of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

a. Developing and maintaining the lead point of contact with local officials, at the Field Office level;

b. Maintaining the role as principal point of contact with industry groups, at the Field Office level;

c. Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;

d. Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters, and the Office of Public Affairs.

e. Administering the local office's Web page and internet sources; and

f. Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Richmond, VA; Baltimore, MD; Charleston, WV; Pittsburgh, PA; Washington, DC; and Wilmington, DE may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 18, 2002.

Milton R. Pratt, Jr.,

Regional Director, Region III.

[FR Doc. 03–550 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–11]

Redelegation of Authority to Field Office Director—Birmingham, AL; Columbia, SC; Greensboro, NC; Jackson, MS; Jacksonville, FL; Knoxville, TN; Louisville, KY; Memphis, TN; Miami, FL; Nashville, TN; Orlando, FL; San Juan, PR; and Tampa, FL

AGENCY: Office of the Regional Director—Region IV (Atlanta, GA), HUD.

ACTION: Notice of redelegation of authority to Field Office Directors—Birmingham, Alabama; Columbia, South Carolina; Greensboro, North Carolina; Jackson, Mississippi; Jacksonville, Florida; Knoxville, Tennessee; Louisville, Kentucky; Memphis, Tennessee; Miami, Florida; Nashville, Tennessee; Orlando Florida; San Juan, Puerto Rico; and Tampa, Florida.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.) Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be *in writing* and identify the *specific authorities* redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, *prior to* signature and publication. In this redelegation of authority, the Regional Director—Region IV (Atlanta, GA) redelegates certain operational management authorities, as specified below, to the Field Office Directors—Birmingham, Alabama; Columbia, South Carolina; Greensboro, North Carolina; Jackson, Mississippi; Jacksonville, Florida; Knoxville, Tennessee; Louisville, Kentucky; Memphis, Tennessee; Miami, Florida; Nashville, Tennessee; Orlando Florida; San Juan, Puerto Rico; and Tampa, Florida.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region IV (Atlanta, GA) redelegates to the Field Office Directors—Birmingham, Alabama; Columbia, South Carolina; Greensboro, North Carolina; Jackson, Mississippi; Jacksonville, Florida; Knoxville, Tennessee; Louisville, Kentucky; Memphis, Tennessee; Miami, Florida; Nashville, Tennessee; Orlando, Florida; San Juan, Puerto Rico; and Tampa, Florida; authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;

• Coordinating cross-program projects and Field Office Quality Management Reviews;

• Preparing briefing papers and hot issues documents;

• Leading disaster relief efforts; and

• Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

• Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;

• Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;

• Approving leave requests for managers and supervisors;

• Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;

• Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and

• Managing and conducting labor/management relations.

3. Administrative Management

• Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

• Managing the administrative budget, *e.g.*, training, equipment, *etc.*;

• Approving program travel requests; and

• Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy

Secretary for Field Policy Management.

5. Representation

• Developing and maintaining the lead point of contact with local officials, at the Field Office level;

• Maintaining the role as principal point of contact with industry groups, at the Field Office level;

• Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;

• Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;

• Administering the local office's Web page and internet sources; and

• Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Birmingham, Alabama; Columbia, South Carolina; Greensboro, North Carolina; Jackson, Mississippi; Jacksonville, Florida; Knoxville, Tennessee; Louisville, Kentucky; Memphis, Tennessee; Miami, Florida; Nashville, Tennessee; Orlando, Florida; San Juan, Puerto Rico; and Tampa, Florida; may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d)

Dated: October 11, 2002.

Brian E. Noyes,

Regional Director, Region IV (Atlanta, GA), Department of Housing and Urban Development.

[FR Doc. 03–551 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–12]

Redelegation of Authority to Field Office Director—Minneapolis, MN; Milwaukee, WI; Indianapolis, IN; Grand Rapids, MI; Flint, MI; Detroit, MI; Cincinnati, OH; Cleveland, OH; Columbus, OH; Springfield, IL

AGENCY: Office of the Regional Director—Region V (Chicago, IL), HUD.

ACTION: Notice of redelegation of authority to Field Office Directors—Minneapolis, MN; Milwaukee, WI; Indianapolis, IN; Grand Rapids, MI; Flint, MI; Detroit, MI; Cincinnati, OH; Cleveland, OH; Columbus, OH; and Springfield, IL.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.). Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be *in writing* and identify the *specific authorities* redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, *prior to* signature and publication. In this redelegation of authority, the Regional Director—Region V (Chicago, IL) redelegates certain operational management authorities, as specified below to the Field Office Directors—Minneapolis, MN; Milwaukee, WI; Indianapolis, IN; Grand Rapids, MI; Flint, MI; Detroit, MI; Cincinnati, OH; Cleveland, OH; Columbus, OH; and Springfield, IL.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region V (Chicago, IL) redelegates to the Field Office Directors—Minneapolis, MN; Milwaukee, WI; Indianapolis, IN; Grand Rapids, MI; Flint, MI; Detroit, MI;

Cincinnati, OH; Cleveland, OH; Columbus, OH; and Springfield, IL; authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;
- Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests; and
- Redistributing up to 20% of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;
- Administering the local office's Web page and internet sources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Minneapolis, MN; Milwaukee, WI; Indianapolis, IN; Grand Rapids, MI; Flint, MI; Detroit, MI; Cincinnati, OH; Cleveland, OH; Columbus, OH; and Springfield, IL; may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

Joseph P. Galvan,

Regional Director, Region V—Chicago, Department of Housing and Urban Development.

[FR Doc. 03–552 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–13]

Redelegation of Authority to Field Office Director—Albuquerque, NM; Dallas, TX; Houston, TX; Lubbock, TX; San Antonio, TX; Little Rock, AR; New Orleans, LA; Shreveport, LA; Oklahoma City, OK; and Tulsa, OK

AGENCY: Office of the Regional Director—Region VI, HUD.

ACTION: Notice of redelegation of authority to field office directors—Albuquerque, NM; Dallas, TX; Houston, TX; Lubbock, TX; San Antonio, TX; Little Rock, AR; New Orleans, LA; Shreveport, LA; Oklahoma City, OK; and Tulsa, OK.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See*, 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.) Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. In this redelegation of authority, the Regional Director—Region VI redelegates certain operational management authorities, as specified below to the Field Office Directors—Albuquerque, NM; Dallas, TX; Houston, TX; Lubbock, TX; San Antonio, TX; Little Rock, AR; New Orleans, LA; Shreveport, LA; Oklahoma City, OK; and Tulsa, OK.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (this is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov*.

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region VI redelegates to the Field Office Directors—Albuquerque, NM; Dallas, TX; Houston, TX; Lubbock, TX; San Antonio, TX; Little Rock, AR; New Orleans, LA; Shreveport, LA; Oklahoma City, OK; and Tulsa, OK, authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Directors—Albuquerque, NM; Dallas, TX; Houston, TX; Lubbock, TX; San Antonio, TX; Little Rock, AR; New Orleans, LA; Shreveport, LA; Oklahoma City, OK; and Tulsa, OK;
- Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing, and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*; and
- Approving program travel requests; and
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters, and the Office of Public Affairs;
- Administering the local office's Web page and internet sources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Albuquerque, NM; Dallas, TX; Houston, TX; Lubbock, TX; San Antonio, TX; Little Rock, AR; New Orleans, LA; Shreveport, LA; Oklahoma City, OK; and Tulsa, OK, may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) Section (d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

A. Cynthia Leon,

Regional Director—Region VI, Department of Housing and Urban Development.

[FR Doc. 03–553 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–14]

Redelegation of Authority to Field Office Director—Region VII Field Offices of Omaha, NE, Des Moines, IA and St. Louis, MO

AGENCY: Office of the Regional Director—Region VII, (Kansas City), HUD.

ACTION: Notice of redelegation of authority to Field Office Directors in the field offices of Omaha, NE, Des Moines, IA and St Louis, MO.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. 67 FR 13790 (March 26, 2002). That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.) Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective regions. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be in writing and identify the specific authorities redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, prior to signature and publication. In this redelegation of authority, the Regional Director—Region VII redelegates certain operational management authorities, as specified below to the Field Office Director in the field offices of Omaha, NE, Des Moines, IA and St Louis, MO.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov*.

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region VII redelegates to the Field Office Director in the field offices of Omaha, NE, Des Moines, IA and St Louis, MO authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;
- Coordinating cross-program projects and Field Office Quality Management Reviews;
- Preparing briefing papers and hot issues documents;
- Leading disaster relief efforts; and
- Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

- Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;
- Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

- Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
- Approving program travel requests.
- Redistributing up to 20 percent of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;
- Administering the local office's Web page and internet sources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director in Omaha, NE, Des Moines, IA and St Louis, MO; may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002s) section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

Macie L. Houston,

Regional Director, Region VII (Kansas City).

[FR Doc. 03–554 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–15]

Redelegation of Authority to Field Office Director—Casper, WY; Fargo, ND; Helena, MT; Salt Lake City, UT; Sioux Falls, SD

AGENCY: Office of the Regional Director—Region VIII (Denver, CO), HUD.

ACTION: Notice of redelegation of authority to Field Office Directors—Casper, Wyoming; Fargo, North Dakota; Helena, Montana; Salt Lake City, Utah; Sioux Falls, South Dakota

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. *See,* 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.). Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be in writing and identify the specific authorities redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, prior to signature and publication. In this redelegation of authority, the Regional Director—Region VIII (Denver, CO) redelegates certain operational management authorities, as specified below to the Field Office Directors—Casper, Wyoming; Fargo, North Dakota; Helena, Montana; Salt Lake City, Utah; Sioux Falls, South Dakota.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region VIII (Denver, CO) redelegates to the Field Office Directors—Casper, Wyoming; Fargo, North Dakota; Helena, Montana; Salt Lake City, Utah, and Sioux Falls, South Dakota; authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

- Developing and implementing Management Plans at the Field Office level;

• Coordinating cross-program projects and Field Office Quality Management Reviews;
• Preparing briefing papers and hot issues documents;
• Leading disaster relief efforts; and
• Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

• Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Director;
• Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
• Approving leave requests for managers and supervisors;
• Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
• Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
• Managing and conducting labor/management relations.

3. Administrative Management

• Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

• Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
• Approving program travel requests; and
• Redistributing up to 20% of travel funds among program areas in coordination with the Regional Director and the Assistant Deputy Secretary for Field Policy and Management.

5. Representation

• Developing and maintaining the lead point of contact with local officials, at the Field Office level;
• Maintaining the role as principal point of contact with industry groups, at the Field Office level;
• Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
• Responding on a case-by-case basis to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;
• Administering the local office's Web page and internet sources; and
• Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director—Casper, Wyoming; Fargo, North Dakota; Helena, Montana; Salt Lake City, Utah; and Sioux Falls, South Dakota; may not further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

John K. Carson,

Regional Director, Region VIII—Denver, Department of Housing and Urban Development.

[FR Doc. 03–555 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–16]

Redelegation of Authority to Field Office Directors—Region IX (San Francisco)

AGENCY: Office of the Regional Director—San Francisco, HUD.

ACTION: Notice of redelegation of authority to Field Office Director—Region IX, in the Field Offices of Fresno, CA; Honolulu, HI; Los Angeles, CA; San Diego, CA; Santa Ana, CA; Las Vegas, NV; Reno, NV; Phoenix, AZ; Tucson, AZ; and Sacramento, CA

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. See, 67 FR 13790 (March 26, 2002). That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA). Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be *in writing* and identify the *specific authorities* redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, *prior to* signature and publication. In this redelegation of authority, the Regional Director—San Francisco redelegates certain operational management authorities, as specified below to the Field Office Directors—Region IX (San Francisco).

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—San Francisco redelegates to the Field Office Director in the field offices of Fresno, CA; Honolulu, HI; Los Angeles, CA; San Diego, CA; Santa Ana, CA; Reno, NV; Phoenix, AZ; Las Vegas, NV; Tucson, AZ; and Sacramento, CA, authority as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

• Developing and implementing Management Plans at the Field Office level;
• Coordinating cross-program projects and Field Office Quality Management Reviews;
• Preparing briefing papers and hot issues documents;

• Leading disaster relief efforts; and
• Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

• Providing input on the performance ratings of managers and supervisors within the jurisdiction of the Field Office Directors—Region IX (San Francisco;
• Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
• Approving leave requests for managers and supervisors;
• Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
• Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
• Managing and conducting labor/management relations.

3. Administrative Management

• Determining official office hours, opening, emergency closing and emergency procedures.

4. Resource Management

• Managing the administrative budget, *e.g.*, training, equipment, *etc.*;
• Approving program travel requests;
• Redistributing up to 20% of travel funds among program areas.

5. Representation.

• Developing and maintaining the lead point of contact with local officials, at the Field Office level;
• Maintaining the role as principal point of contact with industry groups, at the Field Office level;
• Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
• Responding to all media inquiries, at the Field Office level, as designated by the Regional Director on a case-by-case basis, in conjunction with the Regional Director, Headquarters and the Office of Public Affairs;
• Administering the local office's Web page and Internet sources; and
• Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Directors, Region IX (San Francisco), may not further redelegate the specific operational management authorities redelegated within this document. This document supersedes any prior redelegations to managers and supervisors in the field.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

Lily A. Lee,

Acting Regional Director—Region IX (San Francisco), Department of Housing and Urban Development.

[FR Doc. 03–556 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4806–D–17]

Redelegation of Authority to Field Office Directors—Anchorage, Portland, Boise, and Spokane

AGENCY: Office of the Regional Director—Region X, HUD.

ACTION: Notice of redelegation of authority to Field Office Directors—Anchorage Alaska, Portland Oregon, Boise Idaho, and Spokane Washington.

SUMMARY: The Deputy Secretary of HUD, through the Assistant Deputy Secretary for Field Policy and Management, has delegated certain operational management authority to HUD Regional Directors. See, 67 FR 13790 (March 26, 2002.) That delegation provided Regional Directors with the authority necessary to manage programs and resources located in HUD regional and field offices nationwide. Currently, the Regional Directors are located in Region I (Boston, MA); Region II (New York, NY); Region III (Philadelphia, PA); Region IV (Atlanta, GA); Region V (Chicago, IL); Region VI (Ft. Worth, TX); Region VII (Kansas City, KS); Region VIII (Denver, CO); Region IX (San Francisco, CA) and Region X (Seattle, WA.) Under that delegation, Regional Directors were delegated specific authorities pertaining to cross program coordination, personnel management, administrative management, resource management, and representation regarding matters within their respective region. That delegation also permitted the Regional Directors to redelegate certain operational management authorities to Field Office Directors under their respective jurisdictions. All such redelegations must be *in writing* and identify the *specific authorities* redelegated. Redelegations of authority should be reviewed by the appropriate Regional Counsel for that jurisdiction, and the Office of Field Policy and Management, Headquarters, *prior* to signature and publication. In this redelegation of authority, the Regional Director—Region X, redelegates certain operational management authorities, as specified below to the Field Office Directors in Anchorage Alaska, Portland Oregon, Boise Idaho, and Spokane Washington.

EFFECTIVE DATE: October 11, 2002.

FOR FURTHER INFORMATION CONTACT: Bob Etchison, Office of Field Policy and Management, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, (202) 708–1123 (This is not a toll-free number). This number may be accessed via TTY by calling the Federal Information Relay Service at 1–800–877–8339. Comments or questions can be submitted through the Internet to *Bob_Etchison@hud.gov.*

SUPPLEMENTARY INFORMATION: This redelegation of authority is designed to improve efficiency, effectiveness, and accountability of management operations. It is designed to help provide a managerial framework that promotes customer service and encourages coordination among and within the field offices.

Accordingly, the Regional Director—Region X redelegates to the Field Office Directors in Anchorage, Portland, Boise, and Spokane authority within his or her respective jurisdiction as follows:

Section A. Authority Redelegated

1. Cross-Program Coordination

• Developing and implementing Management Plans at the Field Office level;
• Coordinating cross-program projects and Field Office Quality Management Reviews;
• Preparing briefing papers and hot issues documents;
• Leading disaster relief efforts; and
• Consulting with program directors on major program decisions. Where there is a disagreement, the Field Office Director shall consult with the Regional Director. Consistent with the Delegation of Authority at 67 FR 13790 (March 26, 2002), the Regional Director can trigger a review by Headquarters through the Assistant Deputy Secretary for Field Policy and Management.

2. Personnel Management

• Providing input on the performance ratings of managers and supervisors

within the jurisdiction of the Field Office Directors;

- Approving short-term details across program area lines (not to exceed thirty days). Regional Directors may authorize an additional 30 days;
- Approving leave requests for managers and supervisors;
- Participating in the hiring process for managers and supervisors within the jurisdiction of the Field Office Director;
- Acting as supervisor, or when necessary, assigning a supervisor, to outstationed staff; and
- Managing and conducting labor/management relations.

3. Administrative Management

- Determining official office hours, opening, emergency closing and emergency procedures.

4. Managing the Administrative Budget, e.g., Training, Equipment, etc.

- Resource Management.;
- Approving program travel requests; and
- Redistribute up to 20% of travel funds among program areas in coordination with the Regional Director and Assistant Deputy Secretary for Field Policy and Management.

5. Representation

- Developing and maintaining the lead point of contact with local officials, at the Field Office level;
- Maintaining the role as principal point of contact with industry groups, at the Field Office level;
- Managing all inquiries and correspondence, including Freedom of Information Act requests, Congressional and Intergovernmental communications, at the Field Office level;
- Responding on a case-by-case basis, to media inquiries, at the Field Office level, in conjunction with the Regional Director, Headquarters, and the Office of Public Affairs;
- Administering the local office's Web page and internet sources; and
- Monitoring and evaluating customer service at the Field Office level.

Section B. No Authority To Further Redelegate

The Field Office Director *may not* further redelegate the specific operational management authorities redelegated within this document. All previous delegated or redelegated authority to field office managers and supervisors inconsistent with this Redelegation of Authority is hereby revoked.

Authority: Delegation of Authority to Regional Directors, 67 FR 13790 (March 26, 2002.) Section 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: October 11, 2002.

John W. Meyers,

Regional Director—Region X, Department of Housing and Urban Development.

[FR Doc. 03–557 Filed 1–10–03; 8:45 am]

BILLING CODE 4210–32–P

Federal Register

Monday,
January 13, 2003

Part V

Department of Defense

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Base Ventura County, Point Mugu and Port Hueneme, California; Proposed Rules

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Base Ventura County, Point Mugu, CA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers is proposing to amend its regulations to establish a restricted area in waters adjacent to Naval Base Ventura County, Point Mugu, California. This amendment would prohibit vessels from entering a six-mile-long by one-quarter-mile-wide section of the Pacific Ocean along the shoreline between the up-coast limit and the down-coast limit of Point Mugu without first obtaining permission from the Commanding Officer of Naval Base Ventura County. This amendment is necessary to safeguard U.S. Navy vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of similar nature.

DATES: Written comments must be submitted on or before February 12, 2003.

ADDRESSES: Send comments to U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Mark D. Cohen, Corps of Engineers, Los Angeles District, Regulatory Branch, at (213) 452–3413.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbor Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps is proposing to amend the restricted area regulations in 33 CFR part 334 by establishing a restricted area at 334.1126. The proposed restricted area would permanently establish formal advanced notification procedures for all vessels seeking to enter a six-mile-long by one-quarter-mile-wide section of the Pacific Ocean along the shoreline between the up-coast limit and the down-coast limit of Point Mugu.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of executive order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small business and small governments). The Corps of Engineers expects that the economic impact of this modified restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal would have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The Los Angeles District is in the process of preparing an Environmental Assessment (EA) for this action. Although not expected at this time, based on the minor nature of the proposed additional restricted area regulations, an Environmental Impact Statement (EIS) would be prepared if determined appropriate. When the NEPA documentation is completed, it will be available for review at the Los Angeles District office listed at the end of the **FOR FURTHER INFORMATION CONTACT** paragraph, above.

d. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small Governments would not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.1126 is added to read as follows:

§ 334.1126 Naval Base Ventura County, Point Mugu, California; restricted area.

(a) *The area.* The restricted area at Naval Base Ventura County Point Mugu incorporates its shoreline and connects the following points: latitude 34°7′9.9″, longitude 119°9′35.6″ (up-coast shoreline point); latitude 34°7′0.0″, longitude 119°9′46.7″; latitude 34°6′44.9″, longitude 119°9′22.5″; latitude 34°6′30.2″, longitude 119°8′59.0″; latitude 34°6′20.5″, longitude 119°8′46.7″; latitude 34°6′8.4″, longitude 119°8′25.2″; latitude 34°5′53.7′; longitude 119°7′59.5″; latitude 34°5′45.9″, longitude 119°7′41.5″; latitude 34°5′40.1″, longitude 119°7′21.0″; latitude 34°5′33.6″, longitude 119°6′58.1″; latitude 34°5′31.2″, longitude 119°6′37.9″; latitude 34°5′31.0″, longitude 119°6′22.2″; latitude 34°5′32.9″, longitude 119°6′14.4″; latitude 34°5′44.7″, longitude 119°5′54.0″; latitude 34°5′45.2″, longitude 119°5′43.5″; latitude 34°5′41.0″, longitude 119°5′21.2″; latitude 34°5′42.2″, longitude 119°5′13.3″; latitude 34°5′27.8″, longitude 119°4′49.5″; latitude 34°5′17.9″, longitude 119°4′27.9″; latitude 34°5′5.7″, longitude 119°3′59.90″; latitude 34°5′17.9″, longitude 119°3′55.4″ (down-coast shoreline point).

(b) *The regulation.* No vessels may enter the restricted area unless permission is obtained in advance from the Commanding Officer of Naval Base Ventura County.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commanding Officer of the U.S. Naval Base Ventura County, and such agencies or persons as he/she may designate.

Dated: December 31, 2002.

Lawrence A. Lang,

Acting Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 03–561 Filed 1–10–03; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 334

United States Navy Restricted Area, Naval Base Ventura County, Port Hueneme, CA

AGENCY: United States Army Corps of Engineers, DoD.

ACTION: Notice of Proposed rulemaking and request for comments.

SUMMARY: The U.S. Army Corps of Engineers is proposing to amend its regulations to establish a new restricted area in waters adjacent to Naval Base Ventura County, Port Hueneme, California. This amendment would prohibit vessels and persons from entering Port Hueneme Harbor, from the seaward ends of the two entrance jetties to the shoreline, without first obtaining permission from the Captain of the Port or the Commanding Officer of Naval Base Ventura County. This amendment is necessary to safeguard U.S. Navy vessels and United States Government facilities from sabotage and other subversive acts, accidents, or incidents of a similar nature.

DATES: Written comments must be submitted on or before February 12, 2003.

ADDRESSES: Send comments to U.S. Army Corps of Engineers, ATTN: CECW–OR, 441 G Street, NW., Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Frank Torbett, Headquarters Regulatory Branch, Washington, DC at (202) 761–4618, or Mr. Mark D. Cohen, Corps of Engineers, Los Angeles District, Regulatory Branch, at (213) 452–3413.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the River and Harbor Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and chapter XIX, of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3) the Corps of Engineers is proposing to amend the restricted area regulations in 33 CFR part 334 by adding a restricted area at 334.1127. More informal advanced notification procedures similar to those proposed have been in place. In addition, pursuant to federal regulations at 33 CFR 165, the U.S. Coast Guard has extended until June 15, 2003, a temporary security zone that imposes advanced notification requirements for all vessels entering Port Hueneme Harbor. The U.S. Coast Guard extended the effective period of the temporary security zone to continue protecting U.S. Navy vessels and facilities at Port Hueneme from vessel-borne threats until a permanent restricted area is established. The proposed restricted area would permanently establish formal advanced notification procedures for all vessels and persons seeking to enter Port Hueneme Harbor landward of the seaward limits or ends of the two entrance jetties.

Procedural Requirements

a. Review Under Executive Order 12866

This proposed rule is issued with respect to a military function of the Defense Department and the provisions of executive order 12866 do not apply.

b. Review Under the Regulatory Flexibility Act

This proposed rule has been reviewed under the Regulatory Flexibility Act (Pub. L. 96–354) which requires the preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities (*i.e.*, small business and small governments). The Corps of Engineers expects that the economic impact of this new restricted area would have practically no impact on the public, no anticipated navigational hazard or interference with existing waterway traffic and accordingly, certifies that this proposal would have no significant economic impact on small entities.

c. Review Under the National Environmental Policy Act

The Los Angeles District is in the process of preparing an Environmental Assessment (EA) for this action. Although not expected at this time, based on the minor nature of the proposed additional restricted area regulations, an Environmental Impact Statement (EIS) would be prepared if determined appropriate. When the NEPA documentation is completed, it will be available for review at the Los Angeles District office listed at the end of the FOR FURTHER INFORMATION CONTACT paragraph, above.

d. Unfunded Mandates Act

This rule does not impose an enforceable duty among the private sector and, therefore, is not a Federal private sector mandate and is not subject to the requirements of section 202 or 205 of the Unfunded Mandates Act. We have also found under section 203 of the Act, that small governments would not be significantly and uniquely affected by this rulemaking.

List of Subjects in 33 CFR Part 334

Danger zones, Marine safety, Navigation (water), Restricted areas, Waterways.

For the reasons set out in the preamble, the Corps proposes to amend 33 CFR part 334 as follows:

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

1. The authority citation for part 334 continues to read as follows:

Authority: 40 Stat. 266 (33 U.S.C. 1) and 40 Stat. 892 (33 U.S.C. 3).

2. Section 334.1127 is added to read as follows:

§ 334.1127 Naval Base Ventura County, Port Hueneme, California; Restricted Area.

(a) *The area.* The waters within Port Hueneme Harbor, beginning at the seaward ends of the two Port Hueneme Harbor entrance jetties, with the northwestern entrance jetty end occurring at latitude 34°8′37.0″ N, longitude 119°12′58.8″ W and the southeastern entrance jetty occurring at latitude 34°8′34.8″ N, longitude 119°12′43.2″ W and extending northeasterly to the shoreline.

(b) *The regulation.* No vessels or persons may enter the restricted area unless permission is obtained in advance from Captain of the Port or the Commanding Officer of Naval Base Ventura County. Commercial vessels that are required to make Advanced Notifications of Arrival shall continue to do so. All vessels must obtain clearance from ''Control 1'' over marine radio channel 06 VHF–FM prior to crossing the COLREGS (Collision Regulations) demarcation line. Vessels without marine radio capability must obtain clearance in advance by contacting ''Control 1'' via telephone at (805) 982–3938 prior to crossing the COLREGS demarcation line. The COLREGS demarcation line is defined as an imaginary line approximately 1,500 feet in length connecting the seaward limits or ends of the two Port Hueneme Harbor entrance jetties, with the northwestern jetty end occurring at latitude 34°8′37.0″ N, longitude 119°12′58.8″ W and the southeastern entrance jetty occurring at 34°8′34.8″ N, longitude 119°12′43.2″ W.

(c) *Enforcement.* The regulation in this section, promulgated by the United States Army Corps of Engineers, shall be enforced by the Commanding Officer of the U.S. Naval Base Ventura County, or any such agencies or persons as he/she may designate.

Dated: December 31, 2002.

Lawrence A. Lang,

Acting Chief, Operations Division, Directorate of Civil Works.

[FR Doc. 03–562 Filed 1–10–03; 8:45 am]

BILLING CODE 3710–92–P

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Federal Register

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Monday January 13, 2003

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CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JANUARY 13, 2003

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Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:
- Pennsylvania; published 11-12-02

Air quality implementation plans; approval and promulgation; various States:
- Pennsylvania; published 11-14-02
- South Carolina; published 11-13-02

FEDERAL COMMUNICATIONS COMMISSION

Radio services, special:
- Private land mobile services—
  - 700 MHz public safety band; Federal, State, and local public safety agency communication requirements; operational, technical, and spectrum requirements; published 12-13-02

FEDERAL ELECTION COMMISSION

Contribution and expenditure limitations and prohbtons:
- Correction; published 1-14-03

Federal Election Campaign Act:
- Disclaimers, fraudulent solicitation, civil penalties, and personal use of campaign funds; published 12-13-02

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical Devices:
- Cutaneous carbon dioxide and cutaneous oxygen monitors; Class II special controls reclassification; published 12-13-02

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Transportation Equity Act for 21st Century; implementation:
- Indian Reservation Roads funds; 2003 FY funds distribution; published 1-8-03

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

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- Empresa Brasileira de Aeronautica S.A. (EMBRAER); published 1-6-03

Airworthiness standards:
- Transport category airplanes—
  - Airspeed indicating system requirements; published 12-12-02

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:
- Constructive transfers and transfers of property to third party on behalf of spouse; published 1-13-03

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AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Milk marketing orders:
- Central; comments due by 1-21-03; published 11-19-02 [FR 02-29030]

Walnuts grown in—
- California; comments due by 1-21-03; published 11-21-02 [FR 02-29601]

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Food and Nutrition Service

Food Stamp Program:
- Food retailers and wholesalers; administrative review requirements; comments due by 1-24-03; published 11-25-02 [FR 02-29889]

AGRICULTURE DEPARTMENT

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National Forest System timber sale and disposal:
- Timber sale contracts extension to facilitate urgent timber removal from other lands; comments due by 1-21-03; published 11-21-02 [FR 02-29542]

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National Oceanic and Atmospheric Administration

Endangered and threatened species:
- Findings on petitions, etc.—
  - Northern right whales; comments due by 1-21-03; published 11-19-02 [FR 02-29360]

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  - Atlantic bluefish; comments due by 1-21-03; published 1-6-03 [FR 03-00179]
  - Summer flounder, scup, and black sea bass; comments due by 1-21-03; published 12-4-02 [FR 02-30756]

DEFENSE DEPARTMENT

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- Indian organizations and Indian-owned economic enterprises; utilization; comments due by 1-21-03; published 11-22-02 [FR 02-29465]
- Provisional award fee payments; comments due by 1-21-03; published 11-22-02 [FR 02-29466]

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- Case-by-case determinations under Clean Air Act, etc.; comments due by 1-20-03; published 12-9-02 [FR 02-31012]
- Chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks; comments due by 1-21-03; published 11-19-02 [FR 02-29334]

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- Commercial and industrial solid waste incinerators constructed on or before November 30, 1999; Federal plan requirements; comments due by 1-24-03; published 11-25-02 [FR 02-28923]

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- Mississippi; comments due by 1-21-03; published 12-20-02 [FR 02-31977]

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- Minimal risk active and inert ingredients; tolerance exemptions; comments due by 1-21-03; published 11-20-02 [FR 02-29172]

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  - Arsenic standard; clarification; comments due by 1-22-03; published 12-23-02 [FR 02-32376]

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- Fee schedule; comments due by 1-24-03; published 11-25-02 [FR 02-29481]

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- Home health agencies and other entities; posthospital referral; nondiscrimination; comments due by 1-21-03; published 11-22-02 [FR 02-29563]
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- Photocopying reimbursement methodology; comments due by 1-21-03; published 11-22-02 [FR 02-29076]

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Food and Drug Administration

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  - Preble's meadow jumping mouse; comments due by 1-21-03; published 11-21-02 [FR 02-29618]
- Findings on petitions, etc.—
  - Cerulean warbler; comments due by 1-21-03; published 10-23-02 [FR 02-27004]

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Federal prisoners; paroling and releasing, etc.:
- United States and District of Columbia Codes; prisoners serving sentences
  - Military prisoners; mandatory release; comments due by 1-21-03; published 11-7-02 [FR 02-28318]

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OPM employee responsibilities and conduct; comments due

LIST OF PUBLIC LAWS

This is the first in a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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S. 23/P.L. 108–1

To provide for a 5-month extension of the Temporary Extended Unemployment Compensation Act of 2002 and for a transition period for individuals receiving compensation when the program under such Act ends. (Jan. 8, 2003; 117 Stat. 3)

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–048–00001–1)	9.00	Jan. 1, 2002
3 (1997 Compilation and Parts 100 and 101)	(869–048–00002–0)	59.00	[1] Jan. 1, 2002
4	(869–048–00003–8)	9.00	[4] Jan. 1, 2002
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700–1199	(869–048–00005–4)	47.00	Jan. 1, 2002
1200–End, 6 (6 Reserved)	(869–048–00006–2)	58.00	Jan. 1, 2002
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§§ 1.170–1.300	(869–048–00079–8)	55.00	Apr. 1, 2002
§§ 1.301–1.400	(869–048–00080–1)	44.00	Apr. 1, 2002
§§ 1.401–1.440	(869–048–00081–0)	60.00	Apr. 1, 2002
§§ 1.441-1.500	(869-048-00082-8)	47.00	Apr. 1, 2002
§§ 1.501–1.640	(869–048–00083–6)	44.00	[6] Apr. 1, 2002
§§ 1.641–1.850	(869–048–00084–4)	57.00	Apr. 1, 2002
§§ 1.851–1.907	(869–048–00085–2)	57.00	Apr. 1, 2002
§§ 1.908–1.1000	(869–048–00086–1)	56.00	Apr. 1, 2002
§§ 1.1001–1.1400	(869–048–00087–9)	58.00	Apr. 1, 2002
§§ 1.1401–End	(869–048–00088–7)	61.00	Apr. 1, 2002
2–29	(869–048–00089–5)	57.00	Apr. 1, 2002
30–39	(869–048–00090–9)	39.00	Apr. 1, 2002
40–49	(869–048–00091–7)	26.00	Apr. 1, 2002
50–299	(869–048–00092–5)	38.00	Apr. 1, 2002
300–499	(869–048–00093–3)	57.00	Apr. 1, 2002
500–599	(869–048–00094–1)	12.00	[5] Apr. 1, 2002
600–End	(869–048–00095–0)	16.00	Apr. 1, 2002
27 Parts:			
1–199	(869–048–00096–8)	61.00	Apr. 1, 2002

Title	Stock Number	Price	Revision Date
200–End	(869–048–00097–6)	13.00	Apr. 1, 2002
28 Parts:			
0-42	(869–048–00098–4)	58.00	July 1, 2002
43-end	(869-048-00099-2)	55.00	July 1, 2002
29 Parts:			
0–99	(869–048–00100–0)	45.00	[8]July 1, 2002
100–499	(869–048–00101–8)	21.00	July 1, 2002
500–899	(869–048–00102–6)	58.00	July 1, 2002
900–1899	(869–048–00103–4)	35.00	July 1, 2002
1900–1910 (§§ 1900 to 1910.999)	(869–048–00104–2)	58.00	July 1, 2002
1910 (§§ 1910.1000 to end)	(869–048–00105–1)	42.00	[8]July 1, 2002
1911–1925	(869–048–00106–9)	29.00	July 1, 2002
1926	(869–048–00107–7)	47.00	July 1, 2002
1927–End	(869–048–00108–5)	59.00	July 1, 2002
30 Parts:			
1–199	(869–048–00109–3)	56.00	July 1, 2002
200–699	(869–048–00110–7)	47.00	July 1, 2002
700–End	(869–048–00111–5)	56.00	July 1, 2002
31 Parts:			
0–199	(869–048–00112–3)	35.00	July 1, 2002
200–End	(869–048–00113–1)	60.00	July 1, 2002
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–048–00114–0)	56.00	July 1, 2002
191–399	(869–048–00115–8)	60.00	July 1, 2002
400–629	(869–048–00116–6)	47.00	July 1, 2002
630–699	(869–048–00117–4)	37.00	July 1, 2002
700–799	(869–048–00118–2)	44.00	July 1, 2002
800–End	(869–048–00119–1)	46.00	July 1, 2002
33 Parts:			
1–124	(869–048–00120–4)	47.00	July 1, 2002
125–199	(869–048–00121–2)	60.00	July 1, 2002
200–End	(869–048–00122–1)	47.00	July 1, 2002
34 Parts:			
1–299	(869–048–00123–9)	45.00	July 1, 2002
300–399	(869–048–00124–7)	43.00	July 1, 2002
400–End	(869–048–00125–5)	59.00	July 1, 2002
35	(869–048–00126–3)	10.00	[7]July 1, 2002
36 Parts			
1–199	(869–048–00127–1)	36.00	July 1, 2002
200–299	(869–048–00128–0)	35.00	July 1, 2002
300–End	(869–048–00129–8)	58.00	July 1, 2002
37	(869–048–00130–1)	47.00	July 1, 2002
38 Parts:			
0–17	(869–048–00131–0)	57.00	July 1, 2002
18–End	(869–048–00132–8)	58.00	July 1, 2002
39	(869–048–00133–6)	40.00	July 1, 2002
40 Parts:			
1–49	(869–048–00134–4)	57.00	July 1, 2002
50–51	(869–048–00135–2)	40.00	July 1, 2002
52 (52.01–52.1018)	(869–048–00136–1)	55.00	July 1, 2002
52 (52.1019–End)	(869–048–00137–9)	58.00	July 1, 2002
53–59	(869–048–00138–7)	29.00	July 1, 2002
60 (60.1–End)	(869–048–00139–5)	56.00	July 1, 2002
60 (Apps)	(869–048–00140–9)	51.00	[8]July 1, 2002
61–62	(869–048–00141–7)	38.00	July 1, 2002
63 (63.1–63.599)	(869–048–00142–5)	56.00	July 1, 2002
63 (63.600–63.1199)	(869–048–00143–3)	46.00	July 1, 2002
63 (63.1200-End)	(869–048–00144–1)	61.00	July 1, 2002
64–71	(869–048–00145–0)	29.00	July 1, 2002
72–80	(869–048–00146–8)	59.00	July 1, 2002
81–85	(869–048–00147–6)	47.00	July 1, 2002
86 (86.1–86.599–99)	(869–048–00148–4)	52.00	[8]July 1, 2002
86 (86.600–1–End)	(869–048–00149–2)	47.00	July 1, 2002
87–99	(869–048–00150–6)	57.00	July 1, 2002
100–135	(869–048–00151–4)	42.00	July 1, 2002
136–149	(869–048–00152–2)	58.00	July 1, 2002
150–189	(869–048–00153–1)	47.00	July 1, 2002
190–259	(869–048–00154–9)	37.00	July 1, 2002
260–265	(869–048–00155–7)	47.00	July 1, 2002
266–299	(869–048–00156–5)	47.00	July 1, 2002
300–399	(869–048–00157–3)	43.00	July 1, 2002
400–424	(869–048–00158–1)	54.00	July 1, 2002
425–699	(869–048–00159–0)	59.00	July 1, 2002
700–789	(869–048–00160–3)	58.00	July 1, 2002
790–End	(869–048–00161–1)	45.00	July 1, 2002
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–048–00162–0)	23.00	July 1, 2002
101	(869–048–00163–8)	43.00	July 1, 2002
102–200	(869–048–00164–6)	41.00	July 1, 2002
201–End	(869–048–00165–4)	24.00	July 1, 2002
42 Parts:			
1–399	(869–048–00166–2)	56.00	Oct. 1, 2002
400–429	(869–048–00167–1)	59.00	Oct. 1, 2002
430–End	(869–048–00168–9)	61.00	Oct. 1, 2002
43 Parts:			
1–999	(869–048–00169–7)	47.00	Oct. 1, 2002
1000–end	(869–048–00170–1)	59.00	Oct. 1, 2002
44	(869–048–00171–9)	47.00	Oct. 1, 2002
45 Parts:			
1–199	(869–048–00172–7)	57.00	Oct. 1, 2002
200–499	(869–048–00173–5)	31.00	[9]Oct. 1, 2002
500–1199	(869–048–00174–3)	47.00	Oct. 1, 2002
1200–End	(869–048–00175–1)	57.00	Oct. 1, 2002
46 Parts:			
1–40	(869–048–00176–0)	44.00	Oct. 1, 2002
41–69	(869–048–00177–8)	37.00	Oct. 1, 2002
70–89	(869–048–00178–6)	14.00	Oct. 1, 2002
90–139	(869–044–00179–9)	41.00	Oct. 1, 2001
140–155	(869–048–00180–8)	24.00	[9]Oct. 1, 2002
156–165	(869–048–00181–6)	31.00	[9]Oct. 1, 2002
166–199	(869–048–00182–4)	44.00	Oct. 1, 2002
200–499	(869–048–00183–2)	37.00	Oct. 1, 2002
500–End	(869–048–00184–1)	24.00	Oct. 1, 2002
47 Parts:			
0–19	(869–048–00185–9)	57.00	Oct. 1, 2002
20–39	(869–048–00186–7)	45.00	Oct. 1, 2002
40–69	(869–044–00187–0)	36.00	Oct. 1, 2001
70–79	(869–044–00188–8)	58.00	Oct. 1, 2001
80–End	(869–044–00189–6)	55.00	Oct. 1, 2001
48 Chapters:			
1 (Parts 1–51)	(869–044–00190–0)	60.00	Oct. 1, 2001
1 (Parts 52–99)	(869–044–00191–8)	45.00	Oct. 1, 2001
2 (Parts 201–299)	(869–048–00192–1)	53.00	Oct. 1, 2002
3–6	(869–048–00193–0)	30.00	Oct. 1, 2002
7–14	(869–044–00194–2)	51.00	Oct. 1, 2001
15–28	(869–044–00195–1)	53.00	Oct. 1, 2001
29–End	(869–048–00196–4)	38.00	[9]Oct. 1, 2002
49 Parts:			
1–99	(869–048–00197–2)	56.00	Oct. 1, 2002
100–185	(869–044–00198–5)	60.00	Oct. 1, 2001
186–199	(869–048–00199–9)	18.00	Oct. 1, 2002
200–399	(869–044–00200–1)	60.00	Oct. 1, 2001
400–999	(869–044–00201–9)	58.00	Oct. 1, 2001
1000–1199	(869–048–00202–2)	25.00	Oct. 1, 2002

Title	Stock Number	Price	Revision Date
1200–End	(869–048–00203–1)	30.00	Oct. 1, 2002
50 Parts:			
1–199	(869–044–00204–3)	63.00	Oct. 1, 2001
200–599	(869–048–00206–5)	38.00	Oct. 1, 2002
600–End	(869–044–00206–0)	55.00	Oct. 1, 2001
CFR Index and Findings Aids	(869–048–00047–0)	59.00	Jan. 1, 2002
Complete 2001 CFR set		1,195.00	2001
Microfiche CFR Edition:			
Subscription (mailed as issued)		298.00	2000
Individual copies		2.00	2000
Complete set (one-time mailing)		290.00	2000
Complete set (one-time mailing)		247.00	1999

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2001, through January 1, 2002. The CFR volume issued as of January 1, 2001 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2001. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2001, through April 1, 2002. The CFR volume issued as of April 1, 2001 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2001. The CFR volume issued as of July 1, 2000 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2001, through July 1, 2002. The CFR volume issued as of July 1, 2001 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2002. The CFR volume issued as of October 1, 2001 should be retained.