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NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

RIN 3150–AH08

Medical Use of Byproduct Material: Clarifying and Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations regarding the medical use of byproduct material. The direct final rule will clarify the definitions of authorized users, authorized medical physicists, authorized nuclear pharmacists, and radiation safety officers; clarify the notification requirements if the patient is in a medical emergency or dies; clarify the recordkeeping requirements for calibration of brachytherapy sources; correct the title for the National Institute of Standards and Technology; clarify that prior to October 24, 2004, individuals who meet the training and experience requirements in Subpart J may undertake responsibilities specified in certain sections in Subparts B and D–H; and eliminate a restriction that training for ophthalmic use of strontium-90 can only be conducted in medical institutions. These amendments are necessary to clarify certain inconsistencies within the regulations and to allow training in ophthalmic treatment to be conducted in eye clinics or private practices, in addition to medical institutions.

DATES: The final rule is effective on July 7, 2003 unless significant adverse comments are received by May 21, 2003.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150–AHO8) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available to the public in their entirety on the NRC rulemaking Web site. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov.* If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; email *cag@nrc.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking web site at *http://ruleforum.llnl.gov.*

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FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6233, e-mail: *ant@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Procedural Information

Because NRC considers this action to be noncontroversial, the NRC is using the direct final rule process for this rule. The amendments in this rule will become effective on July 7, 2003. However, if the NRC receives significant adverse comments on this direct final rule by May 21, 2003, then the NRC will publish a document that withdraws this action and will subsequently address the comments received in a final rule as a response to the companion proposed rule published elsewhere in this **Federal Register**. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period on this action.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when—

(A) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(B) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(C) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

Background

The NRC published in the **Federal Register** a final rule amending 10 CFR part 35 regarding medical use of byproduct material on April 24, 2002 (67 FR 20249) (final rule). Subsequently, the NRC staff (staff) identified typographical and editorial errors as well as inconsistencies in the Part 35 final rule. The staff published a document correcting the typographical

and editorial errors on October 9, 2002 (67 FR 62872). Both the final rule and the correction became effective on October 24, 2002. This amendment addresses certain inconsistencies that have been identified in the Part 35 final rule and implements a minor change to eliminate a restriction that training for ophthalmic use of strontium-90 can only be conducted in a medical institution.

Section-by-Section Analysis

(1) Section 35.2, Definitions. In this section, ''Authorized medical physicist'' (AMP), ''Authorized nuclear pharmacist'' (ANP), ''Authorized user'' (AU), and ''Radiation Safety Officer'' (RSO) are defined as individuals who meet the criteria in certain referenced sections of this final rule. However, the staff has specifically reinserted subpart J (as contained in the proposed rule (63 FR 43516; August 13, 1998)) for a two-year transition period. Therefore, until October 24, 2004, individuals certified by medical boards listed in that subpart are also qualified as authorized users. It is inconsistent to recognize as authorized users individuals who meet Subpart J requirements, but not include them in the relevant definitions in § 35.2.

The definition of AU is therefore amended to include individuals qualified under §§ 35.910(a), 35.920(a), 35.930(a), 35.940(a), 35.950(a) and 35.960(a), until October 24, 2004. Similarly, the definitions of AMP, ANP, and RSO are amended to include individuals authorized pursuant to §§ 35.961(a) and (b), 35.980(a), and 35.900(a), respectively.

(2) Section 35.51, Training for an authorized medical physicist. The second sentence in paragraph (b)(2) states: ''The written certification must be signed by a preceptor authorized medical physicist who meets the requirements in § 35.51 or equivalent Agreement State requirements. * * *'' However, during the two-year transition period, an individual who meets the requirements of § 35.961 in Subpart J is also qualified to be a preceptor authorized medical physicist. Therefore, this sentence is amended by replacing the phrase ''in § 35.51 or equivalent Agreement State requirement'' with the phrase ''in § 35.51, or, before October 24, 2004, § 35.961, or equivalent Agreement State requirements. * * *''

The following additional sections reflect similar inconsistencies: §§ 35.190(b), (c)(1)(ii), (c)(2); 35.290(b), (c)(1)(ii), (c)(2); 35.390(b)(1)(ii), (b)(2); 35.392(b), (c)(2), (c)(3); 35.394(b), (c)(2), (c)(3); 35.490(b)(1)(ii), (b)(2), (b)(3); 35.491(a), (b)(3); and 35.690(b)(1)(ii), (b)(2), (b)(3). Therefore, these sections are also amended to include the corresponding sections from subpart J.

(3) Section 35.100, Use of unsealed byproduct material for uptake, dilution, and excretion studies for which a written directive is not required. Paragraph (b) states: ''Prepared by an authorized nuclear pharmacist, a physician who is an authorized user and who meets the requirements specified in §§ 35.290 or 35.390, or an individual under the supervision of either as specified in § 35.27.'' However, during the two-year transition period, an authorized user who meets the requirements of § 35.920 in Subpart J is also qualified to prepare unsealed byproduct material for medical use. Therefore, this sentence is amended by replacing the phrase ''in §§ 35.290 or 35.390'' with the phrase ''in §§ 35.290 or 35.390, or, before October 24, 2004, § 35.920.'' In addition, the format of this paragraph has been modified to clearly identify the three categories of persons who can prepare unsealed byproduct material for medical use for uptake, dilution, or excretion.

The following additional sections reflect similar inconsistencies: §§ 35.200(b) and 35.300(b). Therefore, these sections are also amended to include § 35.920.

(4) Section 35.310, Safety instruction. Paragraph (a)(5) provides that a licensee must notify ''the'' AU if the patient has a medical emergency or dies. However, corresponding sections for brachytherapy and external beam therapy (*i.e.*, §§ 35.410(a)(5), 35.415(c), and 35.615(f)(4)) require that ''an'' AU, instead of ''the'' AU, be notified. Section III of the Supplementary Information in the April 24, 2002, final rule states: ''Therefore, because of the type of dosages that are administered under § 35.300, we believe it is important that an AU be available to be contacted in case of a medical emergency or death.'' Notifying ''an'' AU should meet this requirement because ''the'' AU who treats the patient may be unavailable when the patient has a medical emergency or dies. This section is revised to replace the words ''the'' AU with the words ''an'' AU.

(5) Section 35.315, Safety precautions. Paragraph (b) provides that a licensee must notify the RSO, or his or her designee, and ''the'' AU if the patient has a medical emergency or dies. This section is modified to replace the words ''the'' AU with the words ''an'' AU for the reasons explained in (4), above.

(6) Section 35.432, Calibration measurements of brachytherapy sources. Paragraph (a) provides in part that a licensee shall determine the source output and source positioning accuracy. Paragraph (b) states that a licensee may use measurements provided by the source manufacturer or by a calibration laboratory. However, it is not clear that the licensee may perform its own measurement or, as an alternative, use measurements from manufacturer or calibration laboratory. For clarification, this section is therefore revised to add a phrase to the beginning of paragraph (b) to read as follows: ''Instead of a licensee making its own measurements as required in (a), the licensee may use measurements provided by * * *.''

(7) Section 35.491, Training for ophthalmic use of strontium-90. Paragraph (b)(2) currently provides in part that an authorized user of strontium-90 for ophthalmic radiotherapy must have completed supervised clinical training under the supervision of an authorized user at a medical institution that includes the use of strontium-90 for the ophthalmic treatment of five individuals. This current requirement unnecessarily excludes authorized users at eye clinics and private practices from being allowed to provide training. This restriction should be eliminated because many authorized users for ophthalmic treatment work in clinics or private practices. This section is therefore revised to add ''clinic or private practice'' to ''medical institution'' as acceptable locations where the requisite supervised clinical training may be provided.

(8) Section 35.630. Paragraph (a)(1) states: ''The system must have been calibrated using a system or source traceable to the National Institute of Science and Technology (NIST) and * * *.'' The title of NIST is ''National Institute of Standards and Technology.'' Thus, the word ''Science'' is replaced by the word ''Standards.''

(9) Section 35.2432, Records of calibration measurements of brachytherapy sources. This section provides that a licensee must maintain a record of the calibration of brachytherapy sources required by § 35.432. Paragraph 35.2432(b)(5) requires that the record must include the signature of the authorized medical physicist (AMP). Section 35.432, Calibration measurements of brachytherapy sources, requires that a licensee shall have a brachytherapy source calibrated or the licensee may use measurements provided by the source manufacturer or by a calibration laboratory. However, § 35.432 does not specify that an AMP must perform the calibration. Thus, it is inconsistent to require a record of the signature of the AMP in § 35.2432 without a

requirement for the AMP to perform the calibration in § 35.432.

In the proposed rule (63 FR 43516; August 13, 1998), § 35.2432 would have provided that the record of calibration must contain ''the name of the individual or the source manufacturer who performed the calibration.'' This language was consistent with the language of proposed § 35.432.

In the final rule, (67 FR 20249; April 24, 2002), § 35.432 was changed from that in the proposed rule to allow the licensee to rely on measurements provided by a calibration laboratory, in addition to those provided by a manufacturer. The language in § 35.2432 was also changed but was not consistent with § 35.432.

The Supplementary Information to the final rule includes a discussion of the changes made to § 35.2432 between the proposed rule and the final rule. That discussion does not include any rationale for changing the proposed rule language requiring ''the name of the individual or the source manufacturer who performed the calibration'' to the final rule language requiring ''the signature of the authorized medical physicist.'' Section 35.2432(b)(5) is therefore modified to replace the phrase ''the signature of the authorized medical physicist'' with the phrase ''the name of the individual, the source manufacturer, or the calibration laboratory who performed the calibration.'' This modification resolves inconsistency between § 35.2432 and § 35.432.

Agreement State Compatibility

Under the ''Policy Statement on Adequacy and Compatibility of Agreement State Programs'' approved by the Commission on June 30, 1997, and published in the **Federal Register** on September 3, 1997 (62 FR 46517), this direct final rule is a matter of compatibility between NRC and the Agreement States, thereby providing consistency among Agreement State and NRC requirements. A Compatibility Category ''B'' designation means the requirement has significant direct transboundary implications. Compatibility Category ''B'' designated Agreement State requirements should be essentially identical to those of NRC. A Compatibility Category ''D'' designation means the requirement does not need to be adopted by an Agreement State for purposes of compatibility. The Compatibility Category Health and Safety (H&S) identifies requirements that are not required for compatibility, but which have particular health and safety significance. Agreement States should adopt the essential objectives of such requirements in order to maintain an adequate program.

The Compatibility Categories for the sections amended in this direct final rule are the same as the sections in the current regulations. The revisions to §§ 35.2, 35.51, 35.190, 35.290, 35.390, 35.392, 35.394, 35.490, 35.491, and 35.690 are classified as Category B. The revisions to §§ 35.100, 35.200, 35.300, 35.310(a), 35.315, and 35.630 are classified as Category H&S. The revision to § 35.2432 is classified as Category D.

Voluntary Consensus Standards

The National Technology Transfer Act of 1995 (Pub. L. 104–113) requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this direct final rule, NRC is amending 10 CFR part 35 to clarify certain inconsistencies with the regulations and to allow training in ophthalmic treatment to be conducted in eye clinics or private practices, in addition to medical institutions. This action does not constitute the establishment of a standard that establishes generally-applicable requirements.

Environmental Impact: Categorical Exclusion

The Commission has determined that this direct final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(2). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this direct final rule.

Paperwork Reduction Act Statement

This direct final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). However, the rule makes a technical change to correct an error in a record requirement that appeared in the Part 35 final rule. Existing requirements were approved by the Office of Management and Budget, approval number 3150–0010.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Regulatory Analysis

A regulatory analysis has not been prepared for this direct final rule. The clarifying amendments are for ease of understanding of certain aspects of part 35. The minor amendment on ophthalmic treatment is to provide flexibility that clinical training can be conducted under supervision of an authorized user in clinics or private practices, in addition to medical institutions. This flexibility could potentially result in a small reduction in burden for an individual who is undertaking the clinic training.

Regulatory Flexibility Certification

In accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), NRC certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This direct final rule simply amends present regulations to clarify certain inconsistencies with the regulations and to allow training in ophthalmic treatment to be conducted in eye clinics or private practices, in addition to medical institutions. The companies that own these facilities do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards adopted by NRC (10 CFR 2.810).

Backfit Analysis

NRC has determined that the backfit rule does not apply to this direct final rule because these amendments do not involve any provisions that would impose backfits as defined in 10 CFR Chapter 1.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

List of Subjects in 10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

■ For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553; NRC is adopting the following amendments to 10 CFR part 35.

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

■ 1. The authority citation for Part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

■ 2. In § 35.2, the definitions for *authorized medical physicist, authorized nuclear pharmacist, authorized user,* and *radiation safety officer,* are amended by revising paragraph (1) of each definition to read as follows:

§ 35.2 Definitions.

* * * * *

Authorized medical physicist means an individual who—

(1) Meets the requirements in §§ 35.51(a) and 35.59; or, before October 24, 2004, meets the requirements in §§ 35.961(a), or (b), and 35.59; or

* * * * *

Authorized nuclear pharmacist means a pharmacist who—

(1) Meets the requirements in §§ 35.55(a) and 35.59; or, before October 24, 2004, meets the requirements in §§ 35.980(a) and 35.59; or

* * * * *

Authorized user means a physician, dentist, or podiatrist who—

(1) Meets the requirements in §§ 35.59 and 35.190(a), 35.290(a), 35.390(a), 35.392(a), 35.394(a), 35.490(a), 35.590(a), or 35.690(a); or, before October 24, 2004, meets the requirements in §§ 35.910(a), 35.920(a), 35.930(a), 35.940(a), 35.950(a), or 35.960(a) and 35.59; or

* * * * *

Radiation Safety Officer means an individual who—

(1) Meets the requirements in §§ 35.50(a) and 35.59; or, before October 24, 2004, meets the requirements in §§ 35.900(a) and 35.59; or

* * * * *

■ 3. In § 35.51, the second sentence of paragraph (b)(2) is revised to read as follows:

§ 35.51 Training for an authorized medical physicist.

* * * * *

(b) * * *

(2) * * * The written certification must be signed by a preceptor authorized medical physicist who meets the requirements in § 35.51, or, before October 24, 2004, § 35.961, or equivalent Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status.

■ 4. In § 35.100, paragraph (b) is revised to read as follows:

§ 35.100 Use of unsealed byproduct material for uptake, dilution, and excretion studies for which a written directive is not required.

* * * * *

(b) Prepared by:

(1) An authorized nuclear pharmacist;

(2) A physician who is an authorized user and who meets the requirements specified in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920; or

(3) An individual under the supervision, as specified in § 35.27, of the authorized nuclear pharmacist in paragraph (b)(1) of this section or the physician who is an authorized user in paragraph (b)(2) of this section; or

* * * * *

■ 5. In § 35.190, paragraph (b), the introductory text of paragraph (c)(1)(ii), and paragraph (c)(2) are revised to read as follows:

§ 35.190 Training for uptake, dilution, and excretion studies.

* * * * *

(b) Is an authorized user under §§ 35.290, 35.390, or, before October 24, 2004, §§ 35.910, 35.920, or 35.930, or equivalent Agreement State requirements; or

* * * * *

(c) * * *

(1) * * *

(ii) Work experience, under the supervision of an authorized user who meets the requirements in §§ 35.190, 35.290, 35.390, or, before October 24, 2004, §§ 35.910, 35.920, or 35.930, or equivalent Agreement State requirements, involving—

* * * * *

(2) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in §§ 35.190, 35.290, 35.390, or, before October 24, 2004, §§ 35.910, 35.920, or 35.930, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraph (c)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under § 35.100.

■ 6. In § 35.200, paragraph (b) is revised to read as follows:

§ 35.200 Use of unsealed byproduct material for imaging and localization studies for which a written directive is not required.

* * * * *

(b) Prepared by:

(1) An authorized nuclear pharmacist;

(2) A physician who is an authorized user and who meets the requirements specified in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920; or

(3) An individual under the supervision, as specified in § 35.27, of the authorized nuclear pharmacist in paragraph (b)(1) of this section or the physician who is an authorized user in paragraph (b)(2) of this section;

* * * * *

■ 7. In § 35.290, paragraph (b), the introductory text of paragraph (c)(1)(ii), and paragraph (c)(2) are revised to read as follows:

§ 35.290 Training for imaging and localization studies.

* * * * *

(b) Is an authorized user under § 35.390, or, before October 24, 2004, § 35.920, or equivalent Agreement State requirements; or

(c) * * *

(1) * * *

(ii) Work experience, under the supervision of an authorized user, who meets the requirements in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920, or equivalent Agreement State requirements, involving—

* * * * *

(2) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraph (c)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under §§ 35.100 and 35.200.

■ 8. In § 35.300, paragraph (b) is revised to read as follows:

§ 35.300 Use of unsealed byproduct material for which a written directive is required.

* * * * *

(b) Prepared by:

(1) An authorized nuclear pharmacist;

(2) A physician who is an authorized user and who meets the requirements specified in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920; or

(3) An individual under the supervision, as specified in § 35.27, of the authorized nuclear pharmacist in paragraph (b)(1) of this section or the physician who is an authorized user in paragraph (b)(2) of this section; or

* * * * *

■ 9. In § 35.310, paragraph (a)(5) is revised to read as follows:

§ 35.310 Safety instruction.

(a) * * *

(5) Notification of the Radiation Safety Officer, or his or her designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.

* * * * *

■ 10. In § 35.315, paragraph (b) is revised to read as follows:

§ 35.315 Safety precautions.

* * * * *

(b) A licensee shall notify the Radiation Safety Officer, or his or her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

■ 11. In § 35.390, the introductory text of paragraph (b)(1)(ii) and paragraph (b)(2) are revised to read as follows:

§ 35.390 Training for use of unsealed byproduct material for which a written directive is required.

(b) * * *

(1) * * *

(ii) Work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390(a), 35.390(b), or, before October 24, 2004, § 35.930, or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in § 35.390(b) or, before October 24, 2004, § 35.930(b), must also have experience in administering dosages in the same dosage category or categories (*i.e.*, § 35.390(b)(1)(ii)(G)(*1*), (*2*), (*3*), or (*4*)) as the individual requesting authorized user status. The work experience must involve—

* * * * *

(2) Has obtained written certification that the individual has satisfactorily completed the requirements in paragraph (b)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under § 35.300. The written certification must be signed by a preceptor authorized user who meets the requirements in §§ 35.390(a), 35.390(b), or, before October 24, 2004, § 35.930, or equivalent Agreement State requirements. The preceptor authorized user, who meets the requirements in § 35.390(b) or, before October 24, 2004, § 35.930(b), must also have experience in administering dosages in the same dosage category or categories (*i.e.*, § 35.390(b)(1)(ii)(G)(*1*), (*2*), (*3*), or (*4*)) as the individual requesting authorized user status.

■ 12. In § 35.392, paragraph (b), the introductory text of paragraph (c)(2), and paragraph (c)(3) are revised to read as follows:

§ 35.392 Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities less than or equal to 1.22 Gigabecquereis (33 millicuries).

* * * * *

(b) Is an authorized user under §§ 35.390(a), 35.390(b) for uses listed in § 35.390(b)(1)(ii)(G)(*1*) or (*2*), § 35.394, or, before October 24, 2004, §§ 35.930, 35.932, or 35.934, or equivalent Agreement State requirements; or

(c) * * *

(2) Has work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390(a), 35.390(b), 35.392, 35.394, or, before October 24, 2004, §§ 35.930, 35.932, or 35.934, or equivalent Agreement State requirements. A supervising authorized user who meets the requirements in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*1*) or (*2*). The work experience must involve—

* * * * *

(3) Has obtained written certification that the individual has satisfactorily completed the requirements in paragraphs (c)(1) and (c)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under § 35.300. The written certification must be signed by a preceptor authorized user who meets the requirements in §§ 35.390(a), 35.390(b), 35.392, 35.394, or, before October 24, 2004, §§ 35.930, 35.932, or 35.934, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirement in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*1*) or (*2*).

■ 13. In § 35.394, paragraph (b), the introductory text of paragraph (c)(2), and paragraph (c)(3) are revised to read as follows:

§ 35.394 Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities greater than 1.22 Gigabecquereis (33 millicuries).

* * * * *

(b) Is an authorized user under §§ 35.390(a), 35.390(b) for uses listed in § 35.390(b)(1)(ii)(G)(*2*), or, before October 24, 2004, §§ 35.930 or 35.934, or equivalent Agreement State requirements; or

(c) * * *

(2) Has work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390(a), 35.390(b), 35.394, or, before October 24, 2004, §§ 35.930 or 35.934, or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*). The work experience must involve—

* * * * *

(3) Has obtained written certification that the individual has satisfactorily completed the requirements in paragraphs (c)(1) and (c)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under § 35.300. The written certification must be signed by a preceptor authorized user who meets the requirements in §§ 35.390(a), 35.390(b), 35.394, or, before October 24, 2004, §§ 35.930 or 35.934, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*).

■ 14. In § 35.432, paragraph (b) is revised to read as follows:

§ 35.432 Calibration measurements of brachytherapy sources.

* * * * *

(b) Instead of a licensee making its own measurements as required in paragraph (a) of this section, the licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with paragraph (a) of this section.

* * * * *

■ 15. In § 35.490, the introductory text of paragraph (b)(1)(ii), paragraphs (b)(2) and (b)(3) are revised to read as follows:

§ 35.490 Training for use of manual brachytherapy sources.

* * * * *

(b) * * *

(1) * * *

(ii) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in § 35.490, or, before October 24, 2004, § 35.940, or equivalent Agreement State requirements at a medical institution, involving—

* * * * *

(2) Has obtained 3 years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in § 35.490, or, before October 24, 2004, § 35.940, or

equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (b)(1)(ii) of this section; and

(3) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in § 35.490, or, before October 24, 2004, § 35.940, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraphs (b)(1) and (b)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized under § 35.400.

■ 16. In § 35.491, paragraph (a), the introductory text of paragraph (b)(2), and paragraph (b)(3) are revised to read as follows:

§ 35.491 Training for ophthalmic use of strontium-90.

* * * * *

(a) Is an authorized user under § 35.490, or, before October 24, 2004, §§ 35.940 or 35.941, or equivalent Agreement State requirements; or

(b) * * *

(2) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution, clinic, or private practice that includes the use of strontium-90 for the ophthalmic treatment of five individuals. This supervised clinical training must involve—

* * * * *

(3) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in §§ 35.490, 35.491, or, before October 24, 2004, §§ 35.940 or 35.941, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraphs (a) and (b) of this section and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

■ 17. In § 35.630, paragraph (a)(1) is revised to read as follows:

§ 35.630 Dosimetry equipment.

(a) * * *

(1) The system must have been calibrated using a system or source traceable to the National Institute of Standards and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration must have been performed within the previous 2 years and after any servicing that may have affected system calibration; or

* * * * *

■ 18. In § 35.690, the introductory text of paragraph (b)(1)(ii), and paragraphs (b)(2) and (b)(3) are revised to read as follows:

§ 35.690 Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.

* * * * *

(b) * * *

(1) * * *

(ii) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in § 35.690, or, before October 24, 2004, § 35.960, or equivalent Agreement State requirements at a medical institution, involving—

* * * * *

(2) Has completed 3 years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in § 35.690, or, before October 24, 2004, § 35.960, or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (b)(1)(ii) of this section; and

(3) Has obtained written certification that the individual has satisfactorily completed the requirements in paragraphs (b)(1) and (b)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written certification must be signed by a preceptor authorized user who meets the requirements in § 35.690, or, before October 24, 2004, § 35.960, or equivalent Agreement State requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status.

■ 19. In § 35.2432, paragraph (b)(5) is revised to read as follows:

§ 35.2432 Records of calibration measurements of brachytherapy sources.

* * * * *

(b) * * *

(5) The name of the individual, the source manufacturer, or the calibration laboratory that performed the calibration.

Dated at Rockville, Maryland, this 31st day of March, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 03–9601 Filed 4–18–03; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–73–AD; Amendment 39–13122; AD 2003–08–10]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42–500 Series Airplanes, and Model ATR72–102, –202, –212, and –212A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Aerospatiale Model ATR42–500 series airplanes, and Model ATR72–102, –202, –212, and –212A series airplanes, that requires replacement of insulation blankets constructed of metallized polyethyleneteraphthalate (MPET) located from sections 11 through 16 of the fuselage with new insulation blankets constructed of Terul 18™. This amendment is prompted by reports of in-flight and ground fires on certain airplanes manufactured with insulation blankets constructed of MPET, which may contribute to the spread of a fire when ignition occurs from small ignition sources such as electrical arcing or sparking. The actions specified by this AD are intended to ensure that insulation blankets constructed of MPET are removed from the fuselage. Such insulation blankets could propagate a small fire that is the result of an otherwise harmless electrical arc and could lead to a much larger fire. This action is intended to address the identified unsafe condition.

DATES: Effective May 27, 2003.

The incorporation by reference of certain publications listed in the

regulations is approved by the Director of the Federal Register as of May 27, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. 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: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Aerospatiale Model ATR42–500 series airplanes, and Model ATR72–102, –202, –212, and –212A series airplanes, was published in the **Federal Register** on December 13, 2002 (67 FR 76704). That action proposed to require replacement of insulation blankets constructed of metallized polyethyleneteraphthalate (MPET) located from sections 11 through 16 of the fuselage with new insulation blankets constructed of Terul 18™.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 2 Aerospatiale Model ATR42–500 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 500 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will cost approximately $50,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators of Model ATR42–500 series airplanes is estimated to be $160,000, or $80,000 per airplane.

The FAA estimates that 19 Aerospatiale Model ATR72–102, –202, –212, and –212A series airplanes of U.S. registry will be affected by this AD, that it will take approximately 500 work hours per airplane to accomplish the required replacement, and that the average labor rate is $60 per work hour. Required parts will cost approximately $60,000 per airplane. Based on these figures, the cost impact of the AD on U.S. operators of Model ATR72–102, –202, –212, and –212A series airplanes is estimated to be $1,710,000, or $90,000 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:

2003–08–10—Aerospatiale: Amendment 39–13122. Docket 2002–NM–73–AD.

Applicability: Model ATR42–500 series airplanes, and Model ATR72–102, –202, –212, and –212A series airplanes; certificated in any category; except those airplanes on which ATR Modification 5117 or 5322 (reference Avions de Transport Regional Service Bulletin ATR42–25–0134, dated January 24, 2002; or Avions de Transport Regional Service Bulletin ATR72–25–1074, dated January 24, 2002; as applicable) has been installed.

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 insulation blankets constructed of metallized polyethyleneteraphthalate (MPET) are removed from the fuselage, to prevent propagation of a fire that is the result of an otherwise harmless electrical arc and could lead to a much larger fire, accomplish the following:

Insulation Blanket Replacement

(a) Within 5 years after the effective date of this AD, replace insulation blankets located from sections 11 through 16 inclusive of the fuselage with new, improved insulation blankets constructed of Terul 18™, in accordance with the Accomplishment Instructions of Avions de Transport Regional Service Bulletin ATR42–25–0134 (for Model ATR42–500 series airplanes); or ATR72–25–1074 (for Model ATR72–102, –202, –212, –212A series airplanes); both dated January 24, 2002; as applicable.

Note 2: Although paragraph (a) of this AD allows up to 5 years for the required replacement, the FAA encourages operators to review their airplanes to assess their individual needs for materials and plan accordingly. The FAA anticipates that operators will accomplish the requirements of this AD at the earliest practicable maintenance opportunity to lessen the burden toward the end of the compliance time.

Part Installation

(b) As of the effective date of this AD, no person shall install an insulation blanket constructed of MPET 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, International Branch, ANM–116, Transport Airplane Directorate, FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

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

Special Flight Permits

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

Incorporation by Reference

(e) The replacement shall be done in accordance with Avions de Transport Regional Service Bulletin ATR42–25–0134, dated January 24, 2002; or Avions de Transport Regional Service Bulletin ATR72–25–1074, dated January 24, 2002; as applicable. 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 Aerospatiale, 316 Route de Bayonne, 31060 Toulouse, Cedex 03, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directives 2001–635–061(B) and 2001–636–088(B), both dated December 26, 2001.

Effective Date

(f) This amendment becomes effective on May 27, 2003.

Issued in Renton, Washington, on April 11, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9431 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–88–AD; Amendment 39–13121; AD 2003–06–51]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 45 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting airworthiness directive (AD) 2003–06–51 that was sent previously to all known U.S. owners and operators of certain Learjet Model 45 airplanes by individual notices. This AD requires an inspection to determine the part number of the horizontal stabilizer actuator assembly (A66), and replacement of any suspect horizontal stabilizer actuator assembly (A66) with a new or serviceable actuator assembly (A66). This action is prompted by a report of severe vibration followed by a rapid nose down pitch change on a Learjet Model 45 airplane. The actions specified by this AD are intended to prevent structural failure of the horizontal stabilizer actuator assembly, which could result in possible loss of control of the airplane.

DATES: Effective April 28, 2003, to all persons except those persons to whom it was made immediately effective by emergency AD 2003–06–51, issued on March 20, 2003, which contained the requirements of this amendment.

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

Comments for inclusion in the Rules Docket must be received on or before June 20, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–88–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. 2003–NM–88–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 or 2000 for Windows or ASCII text.

The applicable service information may be obtained from Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or 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: David Hirt, Aerospace Engineer, Systems and Equipment Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4156; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: On March 20, 2003, the FAA issued emergency airworthiness directive (AD) 2003–06–51, which is applicable to certain Learjet Model 45 airplanes.

Background

The FAA has received a report of severe vibration followed by a rapid nose down pitch change on a Learjet Model 45 airplane. Investigation revealed that the acme screw of the horizontal stabilizer actuator assembly was fractured. The actuator features a dual load path. The actuator assembly's primary load path, the acme screw, failed. Loads should have been retained by the secondary internal retaining rod. However, the threaded nut on the secondary internal retaining rod had worked completely off, either latently before the fracture or from the effects of the fractured screw. The cause of such failure has not been determined.

There have been no previous reports of fractured acme screws of the horizontal stabilizer actuator assembly. However, there have been reports of cracks in the acme screw. As a result of these reports, the acme screw design was changed in February 2000 to reduce the probability of crack initiation. The fractured acme screw was an early design that did not have the design improvements incorporated to reduce the probability of crack initiation.

Structural failure of the horizontal stabilizer actuator assembly could result in possible loss of control of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Bombardier Learjet Alert Service Bulletin SB A45–27–15, dated March 20, 2003, including Service Bulletin Compliance Response, which describes procedures for performing an inspection to determine the part number (P/N) of the horizontal stabilizer actuator assembly (A66), and replacing any horizontal stabilizer actuator assembly (A66) having P/N 6627401000–001 or P/N 2A9200F with a new or serviceable actuator assembly (A66) having P/N 6627401000–005. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of Requirements of the Rule

Since the unsafe condition described is likely to exist or develop on other airplanes of the same type design, the FAA issued emergency AD 2003–06–51 to prevent structural failure of the horizontal stabilizer actuator assembly, which could result in possible loss of control of the airplane. The AD requires an inspection to determine the P/N of the horizontal stabilizer actuator assembly (A66), and replacement of any horizontal stabilizer actuator assembly (A66) having P/N 6627401000–001 or P/N 2A9200F with a new or serviceable actuator assembly (A66) having P/N 6627401000–005. The actions are required to be accomplished in accordance with the alert service bulletin described previously.

Changes to 14 CFR Part 39/Effect on the AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's AD system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. This material is included in part 39. However, as amended, part 39 provides for the FAA to add special requirements for operating an airplane to a repair facility to do the work required by an AD. For purposes of this emergency AD, we have determined that such a special flight permit is permitted, but with certain limitations.

Determination of Rule's Effective Date

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual notices issued on March 20, 2003, to all known U.S. owners and operators of certain Learjet Model 45 airplanes. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–88–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.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–06–51 Learjet: Amendment 39–13121. Docket 2003–NM–88–AD.

Applicability: Model 45 airplanes, serial numbers 45–001 through 45–232 inclusive; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent structural failure of the horizontal stabilizer actuator assembly, which could result in possible loss of control of the airplane, accomplish the following:

Inspection

(a) Before further flight, do an inspection to determine the part number (P/N) of the horizontal stabilizer actuator assembly (A66), per paragraph 2., ''Accomplishment Instructions,'' of Bombardier Learjet Alert Service Bulletin SB A45–27–15, dated March 20, 2003, excluding Service Bulletin Compliance Response.

Corrective Action

(b) If a horizontal stabilizer actuator assembly (A66) having P/N 6627401000–001 or P/N 2A9200F is found installed during the inspection required by paragraph (a) of this

AD, before further flight, replace the horizontal stabilizer actuator assembly (A66) with a new or serviceable actuator assembly (A66) having P/N 6627401000–005, per paragraph 2., ''Accomplishment Instructions,'' of Bombardier Learjet Alert Service Bulletin SB A45–27–15, dated March 20, 2003, excluding Service Bulletin Compliance Response.

Parts Installation

(c) As of the effective date of this AD, no person shall install any horizontal stabilizer actuator assembly (A66) having P/N 6627401000–001 or P/N 2A9200F, on any airplane.

Special Flight Permit

(d) Special flights may be issued for flights limited to required flight crew only, per 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.

Alternative Methods of Compliance

(e) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Alternative methods of compliance for this emergency AD will be approved by the Manager, Wichita Aircraft Certification Office (ACO), FAA. Contact David Hirt, Wichita ACO, FAA, for information about previously approved alternative methods of compliance.

Incorporation by Reference

(f) The actions shall be done in accordance with Bombardier Learjet Alert Service Bulletin SB A45–27–15, dated March 20, 2003, excluding Service Bulletin Compliance Response. 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or 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

(g) This amendment becomes effective on April 28, 2003, to all persons except those persons to whom it was made immediately effective by emergency AD 2003–06–51, issued on March 20, 2003, which contained the requirements of this amendment.

Issued in Renton, Washington, on April 11, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9430 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–62–AD; Amendment 39–13119; AD 2003–08–08]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, that currently requires, among other actions, a one-time inspection to detect discrepancies at certain areas around the entry light connector of the sliding ceiling panel above the forward passenger doors; repair, if necessary; and installation or modification of a flapper door ramp deflector on the forward entry drop ceiling structure. That AD also currently requires an inspection of the wire assembly support installation above the entry door (L1) sliding panel for chafing, and repair, if necessary. This amendment requires the existing requirements and requires replacing the wire support bracket with new support clip assemblies. The actions specified by this AD are intended to prevent chafing of electrical wire assemblies above the forward passenger doors and above the entry door (L1) sliding panel of the forward drop ceiling on the passenger compartment, which could result in electrical arcing, and consequent electrical fire in the passenger compartment. This action is intended to address the identified unsafe condition.

DATES: Effective May 27, 2003.

The incorporation by reference of Boeing Alert Service Bulletin MD11–24A068, Revision 02, dated May 16, 2001; and Boeing Alert Service Bulletin MD11–25A194, Revision 07, dated January 9, 2002; as listed in the regulations, is approved by the Director of the Federal Register as of May 27, 2003.

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999, as listed in the regulations, was previously approved by the Director of the Federal Register as of March 23, 2000 (65 FR 8034, February 17, 2000).

The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000, as listed in the regulations, was previously approved by the Director of the Federal Register as of January 8, 2001 (65 FR 75612, December 4, 2000).

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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–24–11, amendment 39–12018 (65 FR 75612, December 4, 2000), which is applicable to certain McDonnell Douglas Model MD–11 and –11F airplanes, was published in the **Federal Register** on August 29, 2002 (67 FR 55368). The action proposed to continue to require, among other actions, a one-time inspection to detect discrepancies at certain areas around the entry light connector of the sliding ceiling panel above the forward passenger doors; repair, if necessary; and installation or modification of a flapper door ramp deflector on the forward entry drop ceiling structure. The action also proposed to continue to require an inspection of the wire assembly support installation above the entry door (L1) sliding panel for chafing, and repair, if necessary. The action also proposed to require replacement of the wire support bracket with new support clip assemblies.

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 Revise the Applicability

One commenter states that it is exempt from the requirements of Boeing Alert Service Bulletin MD11–24A068, Revision 02, dated May 16, 2001 (which is referenced in the notice of proposed rulemaking (NPRM) as an appropriate source of service information for accomplishing certain proposed actions), because of the statement in the note in paragraph 1., ''Planning Information'' of the service bulletin. The note states, ''Airplanes that have been modified from passenger to freighter and have had the entry door (L1) sliding panel described in this service bulletin removed are not affected.'' The commenter further states that its fleet has had all sliding panels removed.

From this comment, the FAA infers that the commenter is requesting that we revise the applicability of the NPRM to exclude those airplanes mentioned by the commenter. No change to the final rule is necessary because the third column of Table 1—Applicability of this AD already excludes affected airplanes ''modified from a passenger to a freighter configuration on which the entry door (L1) sliding panel described in Boeing Alert Service Bulletin MD11–24A068, Revision 02, dated May 16, 2001, has been removed.''

The same commenter notes that in Table 1—Applicability, the first service bulletin listed is McDonnell Douglas Alert Service Bulletin MD11–24A194, Revision 06, dated January 27, 2000. The commenter believes the service bulletin should be MD11–25A194. The commenter notes that Service Bulletin MD11–24A194, original issue, dated January 29, 2002, describes procedures for an inspection of the overhead flight compartment, not the L1 entry door.

From this comment, we infer that the commenter is requesting that the correct service bulletin be referenced in the applicability. We agree. It was our intent, as noted elsewhere in the NPRM, to specify McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000, in Table 1—Applicability of this AD. Therefore, we have revised that table accordingly.

Request To Reference Latest Service Bulletin

The same commenter notes that McDonnell Douglas Alert Service Bulletin MD11–25A194 is now up to Revision 07, dated January 9, 2002.

From this comment, we infer that the commenter is requesting that the NPRM be revised to reference that revision as an additional source of service information for accomplishing the proposed installation and modification. We agree. We have reviewed and approved Revision 07 of Boeing Alert Service Bulletin MD11–25A194. Revision 07, among other editorial changes, deletes fuselage number 0450 from the service bulletin effectivity. Therefore, we have revised the final rule to reference that revision as an appropriate source of service information for determining the applicability of the AD and for accomplishing the required installation and modification. In addition, we have revised the Cost Impact figures accordingly.

Explanation of Change to Notes

Since the language in Notes 3 and 5 of the NPRM are regulatory in nature, we have redesignated those notes as paragraphs in this final rule and have renumbered subsequent paragraphs and notes accordingly.

Explanation of Change to Inspection Definitions

We have changed all references to a ''detailed visual inspection'' in the existing AD (requirements are restated in paragraphs (a) through (f) of this final rule) to ''detailed inspection'' in this final rule to correspond with the terminology in MSG–3. For clarification purposes, we also have revised the definition of a ''detailed inspection'' in Note 2 of this final rule and a ''general visual inspection'' in Note 3 of this final rule.

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

1. Actions Currently Required by AD 2000–24–11 and Retained in This AD

There are approximately 110 airplanes of the affected design in the worldwide fleet that are affected by the actions currently required by AD 2000–24–11 and retained in this AD. Of these 110 airplanes, the FAA estimates that 21 airplanes of U.S. registry will be affected by this AD.

The inspection to detect discrepancies around the entry light connector of the slide ceiling panel above the forward passenger doors takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required inspection on U.S. operators is estimated to be $2,520, or $120 per airplane.

For Group 1 airplanes as specified in Boeing Alert Service Bulletin MD11–25A194, Revision 07 (approximately 16 airplanes of U.S. registry), the installation of the flapper door ramp deflector takes approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $455 per airplane. Based on these figures, the cost impact of this currently required installation on U.S. operators of Group 1 airplanes is estimated to be $14,960, or $935 per airplane.

For Group 2 airplanes as specified in Boeing Alert Service Bulletin MD11–25A194, Revision 07 (approximately 8 airplanes of U.S. registry), the installation of the flapper door ramp deflector takes approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts cost approximately $890 per airplane. Based on these figures, the cost impact of this currently required installation on U.S. operators of Group 2 airplanes is estimated to be $10,960, or $1,370 per airplane.

For airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–24A068, Revision 01, dated March 8, 1999 (approximately 21 airplanes of U.S. registry), the inspection of the wire assembly support installation takes approximately 1 work hour per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required inspection on U.S. operators is estimated to be $1,260, or $60 per airplane.

For airplanes in Groups 1 and 3 as specified in Boeing Alert Service Bulletin MD11–25A194, Revision 07 (approximately 18 airplanes of U.S. registry), the modification of the ramp deflector assembly support bracket takes approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required modification on U.S. operators is estimated to be $2,160, or $120 per airplane.

2. New Actions Required by This AD

There are approximately 194 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet that are affected by the actions required by this AD. Of these 194 airplanes, the FAA estimates that 64 airplanes of U.S. registry will be affected by this AD.

The new actions required by paragraph (g) of this AD will take approximately 3 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts will cost approximately $294 per airplane. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $30,336, or $474 per airplane.

3. Cost Estimate Calculation Information

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 removing amendment 39–12018 (65 FR 75612, December 4, 2000), and by adding a new airworthiness directive (AD), amendment 39–13119, to read as follows:

2003–08–08 McDonnell Douglas: Amendment 39–13119. Docket 2001–NM–62–AD. Supersedes AD 2000–24–11, Amendment 39–12018.

Applicability: The following airplanes listed in Table 1 of this AD, certificated in any category:

TABLE 1.—APPLICABILITY

Model	As listed in—	Excluding airplanes—
MD–11 and MD–11F airplanes	Boeing Alert Service Bulletin MD11–25A194, Revision 07, dated January 9, 2002.	None.
MD–11 and MD–11F airplanes	Boeing Alert Service Bulletin MD11–24A068, Revision 02, dated May 16, 2001.	Modified from a passenger to a freighter configuration on which the entry door (L1) sliding panel described in Boeing Alert Service Bulletin MD11–24A068, Revision 02, dated May 16, 2001, has been removed.

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 (h) 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 electrical wire assemblies above the forward passenger doors and above the entry door (L1) sliding panel of the forward drop ceiling on the passenger compartment, which could result in electrical arcing, and consequent electrical fire in the passenger compartment, accomplish the following:

Requirements of AD 2000–24–11

Detailed Inspection

(a) For airplanes listed in McDonnell Douglas Alert Service Bulletins MD11–25A194, Revision 05, dated June 21, 1999; and MD11–24A068, Revision 01, dated March 8, 1999: Within 10 days after December 28, 1998 (the effective date of AD 98–25–11 R1, amendment 39–10988), perform a detailed inspection of the aircraft wiring to detect discrepancies that include but are not limited to frayed, chafed, or nicked wires and wire insulation in the areas specified in paragraphs (a)(1) and (a)(2) of this AD.

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

(1) At the area of the forward drop ceiling just outboard of mod block S3–735, and forward and inboard of the light ballast for the entry light on the sliding ceiling panel above the forward left passenger door (1L) at station location x = 24.75, y = 435, and z = 64.5.

(2) At the area above the forward right passenger door (1R) at station location x = −30, y = 430, and z = 70 in the ramp deflector assembly part number 4223570–501.

Corrective Action

(b) If any discrepancy is detected during the detailed inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with Chapter 20, Standard Wiring Practices of the MD–11 Wiring

Diagram Manual, dated January 1, 1998, or April 1, 1998.

Inspection, Installation, and Modification

(c) For airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999; or MD11–24A068, Revision 01, dated March 8, 1999: Within 6 months after March 23, 2000 (the effective date of AD 2000–03–10, amendment 39–11569), accomplish the actions specified in paragraphs (c)(1), (c)(2), (c)(4), and (c)(5) of this AD, as applicable.

(1) For Group 1 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999: Install a ramp deflector assembly on the right side forward entry drop ceiling structure in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999; McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000; or Boeing Alert Service Bulletin MD11–25A194, Revision 07, dated January 9, 2002. After the effective date of this AD, only Revision 07 of the alert service bulletin shall be used.

(2) For Group 2 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999: Install a ramp deflector assembly on the right side forward entry drop ceiling structure in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999; McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000; or Boeing Alert Service Bulletin MD11–25A194, Revision 07, dated January 9, 2002. After the effective date of this AD, only Revision 07 of the alert service bulletin shall be used.

(3) Installation of a ramp deflector assembly in accordance with McDonnell Douglas Service Bulletin MD11–25–194, dated March 15, 1996; Revision 01, dated May 1, 1996; Revision 02, dated July 12, 1996; Revision 03, dated December 12, 1996; or Revision 04, dated March 8, 1999; is acceptable for compliance with the requirements of paragraph (c)(2) of this AD.

(4) For Group 3 airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999: Modify the previously installed ramp deflector assembly bracket in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999; McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000; or Boeing Alert Service Bulletin MD11–25A194, Revision 07, dated January 9, 2002. After the effective date of this AD, only Revision 07 of the alert service bulletin shall be used.

(5) For airplanes listed in McDonnell Douglas Alert Service Bulletin MD11–24A068, Revision 01, dated March 8, 1999: Perform a general visual inspection of the wire assembly support installation for evidence of chafing, in accordance with the service bulletin. If any chafing is detected, prior to further flight, repair or replace any discrepant part with a new part in accordance with the service bulletin.

Note 3: 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.''

One-Time Inspection

(d) For airplanes other than those identified in paragraph (a) of this AD: Within 10 days after January 8, 2001 (the effective date of AD 2000–24–11, amendment 39–12018), perform a detailed inspection of the aircraft wiring to detect discrepancies that include but are not limited to frayed, chafed, or nicked wires and wire insulation in the areas specified in paragraphs (a)(1) and (a)(2) of this AD. If any discrepancy is found, prior to further flight, repair in accordance with the requirements of paragraph (b) of this AD.

(e) Accomplishment of the inspection required by paragraph (a) of AD 98–25–11 R1, amendment 39–10988, prior to the effective date of this AD, is acceptable for compliance with paragraph (d) of this AD.

Modification

(f) For airplanes listed in Group 3 of McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000: Within 6 months after January 8, 2001, modify the ramp deflector assembly support bracket on the right side forward entry door drop ceiling structure, in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000; or Boeing Alert Service Bulletin MD11–25A194, Revision 07, dated January 9, 2002. After the effective date of this AD, only Revision 07 of the alert service bulletin shall be used.

New Actions Required by This AD

Inspection, Corrective Action, if Necessary, and Replacement

(g) For airplanes listed in Groups 1 and 2 in Boeing Alert Service Bulletin MD11–24A068, Revision 02, dated May 16, 2001: Within 6 months after the effective date of this AD, do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a general visual inspection of the wire assembly support installation above the entry door (L1) sliding panel of the forward drop ceiling of the passenger compartment for chafing per the service bulletin. If any chafing is found, before further flight, repair per the service bulletin.

(2) Replace the wire support bracket with new support clip assemblies and ensure adequate clearance exists for all parts of the wire assembly, including breakouts to module blacks and grounds, per the service bulletin.

Alternative Methods of Compliance

(h) 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 4: 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

(i) 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

(j) Unless otherwise specified in this AD, the actions shall be done in accordance with McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999; McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000; Boeing Alert Service Bulletin MD11–25A194, Revision 07, dated January 9, 2002; and Boeing Alert Service Bulletin MD11–24A068, Revision 02, dated May 16, 2001; as applicable.

(1) The incorporation by reference of Boeing Alert Service Bulletin MD11–24A068, Revision 02, dated May 16, 2001; and Boeing Alert Service Bulletin MD11–25A194, Revision 07, dated January 9, 2002; is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 05, dated June 21, 1999, was previously approved by the Director of the Federal Register as of March 23, 2000 (65 FR 8034, February 17, 2000).

(3) The incorporation by reference of McDonnell Douglas Alert Service Bulletin MD11–25A194, Revision 06, dated January 27, 2000, was previously approved by the Director of the Federal Register as of January 8, 2001 (65 FR 75612, December 4, 2000).

(4) 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

(k) This amendment becomes effective on May 27, 2003.

Issued in Renton, Washington, on April 10, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9429 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–56–AD; Amendment 39–13120; AD 2003–08–09]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and –11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and -11F airplanes, that currently requires a one-time detailed inspection to detect discrepancies of all electrical wiring installations in various areas of the airplane; and corrective actions, if necessary. This amendment requires another identical inspection in additional fuselage stations, and corrective actions, if necessary. This amendment is prompted by a report from the airplane manufacturer that it failed to include 41 inches of fuselage in the previously required inspection. The actions specified by this AD are intended to prevent electrical arcing and/or heat damaged wires due to improper wire installations during manufacture and/or maintenance of the airplane, and consequent fire and smoke in various areas of the airplane.

DATES: Effective May 27, 2003.

The incorporation by reference of Boeing Service Bulletin MD11–24–165, Revision 02, dated March 8, 2001, excluding Evaluation Form, as listed in the regulations, is approved by the Director of the Federal Register as of May 27, 2003.

The incorporation by reference of certain other publications, as listed in the regulations, was approved previously by the Director of the Federal Register as of January 8, 2001 (65 FR 75620).

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: Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 2000–24–15, amendment 39–12022 (65 FR 75620, December 4, 2000), which is applicable to certain McDonnell Douglas Model MD–11 and -11F airplanes, was published in the **Federal Register** on August 29, 2002 (67 FR 55365). The action proposed to continue to require a one-time detailed inspection to detect discrepancies of all electrical wiring installations in various areas of the airplane; and corrective actions, if necessary. The action also proposed to require another identical inspection in additional fuselage stations, 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.

Two commenters request that the compliance time for the proposed one-time detailed inspection to detect discrepancies of all electrical wiring installations in the forward passenger compartment from stations Y=1501.000 to Y=5–10.000 be extended from five years to six years. The commenters state that this will allow the inspection to be accomplished during a routine maintenance visit.

The FAA agrees. On May 19, 2000, we issued AD 2000–11–02, amendment 39–11750 (65 FR 34341, May 26, 2000), applicable to certain McDonnell Douglas Model DC–10–10F, DC–10–15, DC–10–30, DC–10–30F, and DC–10–40 series airplanes, and Model MD–11 and –11F airplanes. That AD requires a determination be made of whether, and at what locations, metallized polyethyleneteraphthalate (MPET) insulation blankets are installed, and replacement of MPET insulation blankets with new insulation blankets. The compliance time is within five years after June 30, 2000. Therefore, within approximately three years, the fire and smoke hazard in various areas of those airplanes due to possible ignition of MPET insulation blankets will be significantly reduced.

In light of this factor, we have determined that extending the compliance time of the inspection required by paragraph (b) of this AD by one year will not adversely affect safety, and will allow the inspection to be performed at a base during regularly scheduled maintenance where special equipment and trained maintenance personnel will be available if necessary. Therefore, we have revised paragraph (b) of the final rule to specify a compliance time of within six years after the effective date of this AD.

Explanation of Editorial Change

We have changed the citation for Boeing Service Bulletin MD11–24–165, Revision 02, dated March 8, 2001, throughout this final rule to exclude the Evaluation Form. (The form is intended to be completed by operators and submitted to the airplane 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, we have determined that air safety and the public interest require the adoption of the rule with the changes previously described. We have 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 182 Model MD–11 and –11F airplanes of the affected design in the worldwide fleet. We estimate that 60 airplanes of U.S. registry will be affected by this AD.

Each of the six inspections required by paragraphs (a)(1) through (a)(6) of this AD, which are currently required by AD 2000–24–15, require approximately 10 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of these currently required actions on U.S. operators is estimated to be $216,000, or $3,600 per airplane.

The inspection required by paragraph (a)(7) of this AD, which is currently required by AD 2000–24–15, takes approximately 5 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required action on U.S. operators is estimated to be $18,000, or $300 per airplane.

The inspection required by paragraph (a)(8) of this AD, which is currently required by AD 2000–24–15, takes approximately 12 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this currently required action on U.S. operators is estimated to be $43,200, or $720 per airplane.

The new inspection required by paragraph (b) of this AD will 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 inspection of this AD on U.S. operators is estimated to be $3,600, or $60 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. However, the FAA has been advised that manufacturer warranty remedies are available for labor costs associated with accomplishing the actions required by this proposed AD. Therefore, the future economic cost impact of this rule on U.S. operators may be less than the cost impact figure indicated above.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing amendment 39–12022 (65 FR 75620, December 4, 2000), and by adding a new airworthiness directive (AD), amendment 39–13120, to read as follows:

2003–08–09 McDonnell Douglas: Amendment 39–13120. Docket 2001–NM–56–AD. Supersedes AD 2000–24–15, Amendment 39–12022.

Applicability: Model MD–11 and –11F airplanes, manufacturer's fuselage numbers 0447 through 0449 inclusive, 0451 through 0464 inclusive, 0466 through 0489 inclusive, 0491 through 0517 inclusive, 0519 through 0552 inclusive, 0554 through 0556 inclusive, 0557, 0558 through 0633 inclusive, and 0635; 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 (f)(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.

Note 2: The FAA recommends that the actions required by this AD be accomplished immediately after accomplishing the replacement of metallized polyethyleneteraphthalate (MPET) insulation blankets, as required by AD 2000–11–02, amendment 39–11750 (65 FR 34341, May 26, 2000).

To prevent electrical arcing and/or heat damaged wires due to improper wire installations during manufacture and/or maintenance of the airplane, and consequent fire and smoke in various areas of the airplane, accomplish the following:

Restatement of Certain Requirements of AD 2000–24–15

One-Time Detailed Inspection

(a) Within 5 years after January 8, 2001 (the effective date of AD 2000–24–15, amendment 39–12022), accomplish the actions specified in paragraphs (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), and (a)(8) of this AD, as applicable.

(1) *For all airplanes:* Perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the center and aft cargo compartments from stations Y=1521.000 to Y=2007.000, in accordance with paragraph 3.B., ''Work Instructions,'' of the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD11–24–171, dated April 4, 2000; or Revision 01, dated November 6, 2000.

Note 3: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

(2) *For all airplanes:* Perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the forward cargo compartment from stations Y=595.000 to Y=6–73.500, in accordance with paragraph 3.B., ''Work Instructions,'' of the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD11–24–170, dated April 12, 2000; or Revision 01, dated November 6, 2000.

(3) *For all airplanes:* Perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the forward passenger compartment from stations Y=5–11.000 to Y=2007.000, in accordance with paragraph 3.B., ''Work Instructions,'' of

the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD11–24–167, dated April 4, 2000; or Boeing Service Bulletin MD11–24–167, Revision 01, including Appendix 1, dated November 6, 2000.

(4) *For all airplanes:* Perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the forward passenger compartment from stations Y=756.000 to Y=1501.000, in accordance with paragraph 3.B., ''Work Instructions,'' of the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD11–24–165, dated April 4, 2000; or Boeing Service Bulletin MD11–24–165, Revision 01, including Appendix, dated November 6, 2000; or Revision 02, including Appendix, dated March 8, 2001, excluding Evaluation Form.

(5) *For all airplanes:* Perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the forward passenger compartment from stations Y=465.000 to Y=755.000, in accordance with paragraph 3.B., ''Work Instructions,'' of the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD11–24–163, dated April 4, 2000; or Boeing Service Bulletin MD11–24–163, Revision 01, including Appendix 1, dated November 6, 2000.

(6) *For all airplanes:* Perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the flight compartment and forward drop ceilings areas from stations Y=275.000 to Y=464.000, in accordance with paragraph 3.B., ''Work Instructions,'' of the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD11–24–188, dated April 28, 2000; or Revision 01, dated November 6, 2000.

(7) For airplanes having manufacturer's fuselage numbers 0447 through 0449 inclusive, 0451 through 0464 inclusive, 0466 through 0489 inclusive, 0491 through 0517 inclusive, 0519 through 0552 inclusive, 0554 through 0556 inclusive, 0557, and 0558 through 0633 inclusive: Perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the center accessory compartment from stations Y=6–50.000 to Y=1179.000, in accordance with paragraph 3.B., ''Work Instructions,'' of the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD11–24–161, dated April 10, 2000; or Revision 01, dated November 6, 2000.

(8) For airplanes having manufacturer's fuselage numbers 0447 through 0449 inclusive, 0451 through 0464 inclusive, 0466 through 0489 inclusive, 0491 through 0517 inclusive, 0519 through 0552 inclusive, 0554 through 0556 inclusive, 0557, and 0558 through 0633 inclusive: Perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the main avionics compartment from stations Y=275.000 to Y=464.000, in accordance with paragraph 3.B., ''Work Instructions,'' of the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD11–24–162, dated April 10, 2000; or Revision 01, dated November 6, 2000.

New Actions Required by This AD

One-Time Detailed Inspection

(b) For Group 2 airplanes identified in Boeing Service Bulletin MD11–24–165, Revision 02, including Appendix, dated March 8, 2001, excluding Evaluation Form: Within 6 years after the effective date of this AD, perform a one-time detailed inspection to detect discrepancies of all electrical wiring installations in the forward passenger compartment from stations Y=1501.000 to Y=5–10.000, in accordance with paragraph 3.B., ''Work Instructions,'' ''Group 2,'' of the Accomplishment Instructions of Boeing Service Bulletin MD11–24–165, Revision 02, dated March 8, 2001, excluding Evaluation Form.

Corrective Action

(c) If any discrepancy is detected during the inspection required by paragraphs (a)(1) through (a)(8) of this AD or paragraph (b) of this AD, before further flight, accomplish the applicable corrective action(s) in accordance with the Accomplishment Instructions of the following applicable service bulletins, except as provided in paragraphs (d) and (e) of this AD, as applicable:

(1) McDonnell Douglas Service Bulletin MD11–24–171, dated April 4, 2000; or Revision 01, dated November 6, 2000;

(2) McDonnell Douglas Service Bulletin MD11–24–170, dated April 12, 2000; or Revision 01, dated November 6, 2000;

(3) McDonnell Douglas Service Bulletin MD11–24–167, dated April 4, 2000;

(4) Boeing Service Bulletin MD11–24–167, dated April 4, 2000; or Revision 01, including Appendix, dated November 6, 2000;

(5) McDonnell Douglas Service Bulletin MD11–24–165, dated April 4, 2000;

(6) Boeing Service Bulletin MD11–24–165, Revision 01, including Appendix, dated November 6, 2000;

(7) McDonnell Douglas Service Bulletin MD11–24–163, dated April 4, 2000;

(8) Boeing Service Bulletin MD11–24–163, Revision 01, including Appendix 1, dated November 6, 2000;

(9) McDonnell Douglas Service Bulletin MD11–24–188, dated April 28, 2000; or Revision 01, dated November 6, 2000;

(10) McDonnell Douglas Service Bulletin MD11–24–161, dated April 10, 2000; or Revision 01, dated November 6, 2000; or

(11) McDonnell Douglas Service Bulletin MD11–24–162, dated April 10, 2000; or Revision 01, dated November 6, 2000;

(12) Boeing Service Bulletin MD11–24–165, Revision 02, including Appendix, dated March 8, 2001, excluding Evaluation Form.

Note 4: Where there are differences between the AD and the referenced service bulletins, the AD prevails.

(d) If no gap between the wire bundle and blanket can be seen where the wiring is routed over the structural frames when pressure is applied to the blanket, before further flight, reposition wires or clamps so that a gap can be seen when pressure is applied to the blanket.

(e) If any screw terminal of the flag lug bus bar is loose, before further flight, retorque to 10 to 11 inch-pounds.

Alternative Methods of Compliance

(f)(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, 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 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Los Angeles ACO.

(2) Alternative methods of compliance, approved previously in accordance with AD 2000–24–15, amendment 39–12022, are approved as alternative methods of compliance with this AD.

Special Flight Permits

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

Incorporation by Reference

(h) Unless otherwise specified in this AD, the actions shall be done in

accordance with the applicable service bulletins listed in the following table:

TABLE.—APPLICABLE SERVICE BULLETINS

Service bulletin	Revision level	Date
Boeing Service Bulletin MD11–24–163, including Appendix	Revision 01	November 6, 2000.
Boeing Service Bulletin MD11–24–165, including Appendix 1	Revision 01	November 6, 2000.
Boeing Service Bulletin MD11–24–165, including Appendix, excluding Evaluation Form	Revision 02	March 8, 2001.
Boeing Service Bulletin MD11–24–167, including Appendix	Revision 01	November 6, 2000.
McDonnell Douglas Service Bulletin MD11–24–161	Original	April 10, 2000.
McDonnell Douglas Service Bulletin MD11–24–161	Revision 01	November 6, 2000.
McDonnell Douglas Service Bulletin MD11–24–162	Original	April 10, 2000.
McDonnell Douglas Service Bulletin MD11–24–162	Revision 01	November 6, 2000.
McDonnell Douglas Service Bulletin MD11–24–163	Original	April 4, 2000.
McDonnell Douglas Service Bulletin MD11–24–165	Original	April 4, 2000.
McDonnell Douglas Service Bulletin MD11–24–167	Original	April 4, 2000.
McDonnell Douglas Service Bulletin MD11–24–170	Original	April 12, 2000.
McDonnell Douglas Service Bulletin MD11–24–170	Revision 01	November 6, 2000.
McDonnell Douglas Service Bulletin MD11–24–171	Original	April 4, 2000.
McDonnell Douglas Service Bulletin MD11–24–171	Revision 01	November 6, 2000.
McDonnell Douglas Service Bulletin MD11–24–188	Original	April 28, 2000.
McDonnell Douglas Service Bulletin MD11–24–188	Revision 01	November 6, 2000.

(1) The incorporation by reference of Boeing Service Bulletin MD11–24–165, Revision 02, including Appendix, dated March 8, 2001, excluding Evaluation Form, is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

(2) The incorporation by reference of the following service bulletins labeled original, MD11–24–161, MD11–24–162, MD11–24–163, MD11–24–165, MD11–24–167, MD11–24–170, MD11–24–171, and MD11–24–188; and labeled Revision 1, MD11–24–163 including Appendix, MD11–24–165 including Appendix 1, MD11–24–167 including Appendix, MD11–24–162, MD11–24–161, MD11–24–170, MD11–24–171, and MD11–24–188; as stated in the table above; were approved previously by the Director of the Federal Register as of January 8, 2001 (65 FR 75620, December 4, 2000).

(3) 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

(i) This amendment becomes effective on May 27, 2003.

Issued in Renton, Washington, on April 10, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9428 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–166–AD; Amendment 39–13066; AD 2003–04–17]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and MD–11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and MD–11F airplanes, that requires an inspection to detect damage of the wiring/bundles routed to the wire support bar of the circuit breaker panel and to the circuit breakers, and an inspection of the wiring/bundles for correct routing. This amendment also requires installation of protective sleeving, spacers, and sta-straps; and corrective/follow-on actions, if necessary. The actions specified by this AD are necessary to prevent chafing and consequent arcing or loss of electrical power to associated avionics buses in the upper avionics circuit breaker panel of the main observer's station, which could result in smoke and/or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective May 27, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 27, 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: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address:

sandi.carli@faa.gov. Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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 MD–11 and MD–11F airplanes was published in the **Federal Register** on August 29, 2002 (67 FR 55372). That action proposed to require an inspection to detect damage of the wiring/bundles routed to the wire support bar of the circuit breaker panel and to the circuit breakers, and an inspection of the wiring/bundles for correct routing. That action also proposed to require installation of protective sleeving, spacers, and sta-straps; and corrective/follow-on actions, if necessary.

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.)

Opportunity To Comment

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

Conclusion

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

Cost Impact

There are approximately 195 Model MD–11 and MD–11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 72 airplanes of U.S. registry will be affected by this AD, that it will take approximately 3 work hours per airplane to accomplish the required actions, 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 $12,960, or $180 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:

2003–04–17 McDonnell Douglas: Amendment 39–13066. Docket 2001–NM–166–AD.

Applicability: Model MD–11 and MD–11F airplanes, as listed in Boeing Alert Service Bulletin MD11–24A179, Revision 02, dated December 19, 2001; 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 chafing and consequent arcing or loss of electrical power to associated avionics buses in the upper avionics circuit breaker panel, which could result in smoke and/or fire in the cockpit, accomplish the following:

Inspection, Corrective Actions, Modification, and Installation

(a) Within 6 months after the effective date of this AD, do the actions specified in paragraphs (a)(1) through (a)(3) of this AD, per Boeing Alert Service Bulletin MD11–24A179, Revision 02, dated December 19, 2001, excluding Evaluation Form.

(1) Do a detailed inspection to detect damage of the wiring/bundles routed to the wire support bar of the circuit breaker panel and to the circuit breakers.

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

(2) Do a general visual inspection of the wiring/bundles for correct routing. Make sure ABS9108 (16-gauge power feeders) routing provides adequate stress relief from the support bar to bus termination points.

Note 3: 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.''

(3) Install protective sleeving, spacers, and sta-straps.

Corrective/Follow-On Actions, If Necessary

(b) Before further flight after doing the inspections required by paragraphs (a)(1) and (a)(2) of this AD, do the applicable corrective/follow-on action(s) specified in ''Table-Corrective/Follow-On Actions'' of this AD per Boeing Alert Service Bulletin MD11–24A179, Revision 02, dated December 19, 2001, excluding Evaluation Form. Table—Corrective/Follow-On Actions is as follows:

TABLE.—CORRECTIVE/FOLLOW-ON ACTIONS

If—	Then—
(1) Any damaged wiring/bundle is detected	Repair or replace any damaged wiring/bundle with new wiring.
(2) Correct routing is detected	Replace the wire clamp located on the support bar of the circuit breaker panel with a new clamp.
(3) Incorrect routing is detected	Modify wire routing, and replace the wire clamp located on the support bar of the circuit breaker panel with a new clamp.

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, 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 4: 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 Permit

(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 Boeing Alert Service Bulletin MD11–24A179, Revision 02, 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 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

(f) This amendment becomes effective on May 27, 2003.

Issued in Renton, Washington, on April 10, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9427 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–160–AD; Amendment 39–13065; AD 2003–04–16]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model MD–11 and MD–11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model MD–11 and MD–11F airplanes that requires an inspection to detect chafed wires in the avionics equipment compartment, and repair, if necessary. This amendment also requires replacement of the existing cover of the avionics cooling fan with a new cover, and installation of a new placard on the cover. Additionally, this amendment specifies which previously accomplished actions are acceptable for compliance with certain requirements of this AD; and clarifies the applicability, a part number, and the inspection definition. The actions specified by this AD are intended to ensure that the cover of the avionics cooling fans is removed only for fan maintenance, and to prevent smoke and/or fire in the avionics equipment compartment due to chafing and arcing as a result of maintenance personnel lying against the removed cover and/or insulation blankets that cover wire harnesses. This action is intended to address the identified unsafe condition.

DATES: Effective May 27, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of May 27, 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: *Technical Information:* Brett Portwood, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5350; fax (562) 627–5210.

Other Information: Sandi Carli, Airworthiness Directive Technical Writer/Editor; telephone (425) 687–4243, fax (425) 227–1232. Questions or comments may also be sent via the Internet using the following address: *sandi.carli@faa.gov.* Questions or comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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 MD–11 and MD–11F airplanes was published in the **Federal Register** on August 29, 2002 (67 FR 55362). That action proposed to require an inspection to detect chafed wires in the avionics equipment compartment, and repair, if necessary. That action also proposed to require replacement of the existing cover of the avionics cooling fan with a new cover, and installation of a new

placard on the cover. Additionally, that action proposed to specify which previously accomplished actions are acceptable for compliance with certain requirements of that proposed AD; and clarify the applicability, a part number, and the inspection definition.

Since the Issuance of the NPRM

The manufacturer has released Revision 02 of Boeing Alert Service Bulletin (ASB) MD11–21A033, dated December 4, 2002. Revision 02 of the ASB made certain editorial and cost information changes, but states that no more work is necessary on airplanes on which Revision 01 has been accomplished. We have determined that accomplishing the actions specified in Revision 02 of the ASB is an adequate method of compliance to the requirements of the final rule, and have revised the final rule accordingly.

Explanation of Editorial Change

We have changed the citation for Boeing Alert Service Bulletin MD11–21A033, Revision 01, dated April 30, 2001, 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.)

Opportunity To Comment

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

Conclusion

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 described previously. 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 80 Model MD–11 and MD–11F airplanes of the affected design in the worldwide fleet. The FAA estimates that 33 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $1,991 per airplane. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $73,623, or $2,231 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:

2003–04–16 McDonnell Douglas: Amendment 39–13065. *Docket 2001–NM–160–AD.*

Applicability: Model MD–11 and MD–11F airplanes, as listed in Boeing Alert Service Bulletin MD11–21A033, Revision 01, dated April 30, 2001; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that the cover of the avionics cooling fans is removed only for fan maintenance, and to prevent smoke and/or fire in the avionics equipment compartment due to chafing and arcing as a result of maintenance personnel lying against the removed cover and/or insulation blankets that cover wire harnesses, accomplish the following:

Inspection and Repair if Necessary

(a) Within 18 months after the effective date of this AD, do a general visual inspection to detect chafed wires in the area of the avionics cooling fans inside the avionics equipment compartment, per Boeing Alert Service Bulletin MD11–21A033, Revision 01, dated April 30, 2001, excluding Evaluation Form or Revision 02, dated December 4, 2002, excluding Evaluation Form. If any chafed wiring is detected, before further flight, repair per the service bulletin.

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.''

Replacement of a Cover and Installation of a New Placard

(b) Within 18 months after the effective date of this AD, replace the existing cover of the avionics cooling fan with a new cover,

and install a new placard on the cover, per Boeing Alert Service Bulletin MD11–21A033, Revision 01, dated April 30, 2001, excluding Evaluation Form or Revision 02, dated December 4, 2002. The replacement must be done with part numbers that are specified in View C–C, Figure 1, of the service bulletin.

(c) Accomplishment of the actions specified in McDonnell Douglas Service Bulletin MD11–21–033, dated May 1, 1992, before the effective date of this AD, is considered acceptable for compliance with the requirements of paragraph (b) of this AD.

Spares

(d) As of the effective date of this AD, no person shall install a cover assembly, part number ABM7569–1, on any airplane.

Alternative Methods of Compliance

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, 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

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

Incorporation by Reference

(g) Unless otherwise specified by this AD, the actions shall be done in accordance with Boeing Alert Service Bulletin MD11–21A033, Revision 01, dated April 30, 2001, excluding Evaluation Form or Boeing Alert Service Bulletin MD11–21A033, Revision 02, dated December 4, 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 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

(h) This amendment becomes effective on May 27, 2003.

Issued in Renton, Washington, on April 10, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–9426 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–SW–50–AD; Amendment 39–13123; AD 2001–13–03 R1]

RIN 2120–AA64

Airworthiness Directives; Kaman Aerospace Corporation Model K–1200 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises an existing airworthiness directive (AD) for Kaman Aerospace Corporation (Kaman) Model K–1200 helicopters that currently requires reducing the life limit of the rotor shaft and teeter pin assembly and establishing a life limit for the flap clevis. This amendment retains those requirements but removes a flap clevis part number from the applicability and, as a result of a comment, changes the application of the life limit from the flap clevis to the flap clevis assembly. This amendment is prompted by the determination after an analysis of testing results that a certain flap clevis assembly should have an unlimited life. The actions specified by this revision are intended to remove the life limit for a specified flap clevis assembly. The actions specified by this AD are intended to prevent fatigue failure of the rotor shaft, teeter pin assembly, and flap clevis assembly, and subsequent loss of control of the helicopter.

DATES: Effective May 27, 2003.

FOR FURTHER INFORMATION CONTACT: Richard Noll, Aviation Safety Engineer, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, MA 01803, telephone (781) 238–7160, fax (781) 238–7170.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 by revising AD 2001–13–03, Amendment 39–12283 (66 FR 34102, June 27, 2001), for 1 Kaman Model K–1200 helicopters, was published in the **Federal Register** on May 13, 2002 (67 FR 31992). The action proposed retaining the existing life limit for each rotor shaft, teeter pin assembly, and flap clevis, except flap clevis, part number (P/N) K911049–021. That action was prompted by the determination after an analysis of testing results that flap clevis, P/N K911049–021, should have an unlimited life.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received. The one commenter, the manufacturer, states that the flap clevis assembly part numbers should be identified instead of the flap clevis part numbers to be consistent with actual current maintenance practices. The FAA agrees because we have approved a revision to the Airworthiness Limitations of the Kaman Model K–1200 helicopter maintenance manual that imposes the life limit on the flap clevis assembly part numbers not the flap clevis part numbers. The proposed change will make this AD consistent with the Airworthiness Limitations section. Additionally, two part numbers for the flap clevis were incorrectly stated in paragraph (b) of the proposed AD; however, this change to flap clevis assembly parts number also corrects that error.

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

The FAA estimates that this AD will affect nine helicopters of U.S. registry. No additional costs will be incurred to accomplish the proposed actions because it would relieve a previously-imposed AD life limit for flap clevis, P/N K911049–021.

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 FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by removing Amendment 39–12283 (66 FR 34102, June 27, 2001), and by adding a new airworthiness directive (AD), Amendment 39–13123, to read as follows:

2001–13–03 R1 Kaman Aerospace Corporation: Amendment 39–13123. Docket No. 2000–SW–50–AD. Revises AD 2001–13–03, Amendment 39–12283, Docket No. 2000–SW–50–AD.

Applicability: Model K–1200 helicopters, certificated in any category.

Note 1: This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in 2 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 failure of the rotor shaft, teeter pin assembly, or flap clevis due to fatigue cracks, and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, remove any rotor shaft, part number (P/N) K974112–001, –003, –005, –007, –009, or –101, that has 3,750 or more hours time-in-service (TIS) and replace it with an airworthy part. Remove any teeter pin assembly, P/N K910005–007 or –009, that has 550 or more hours TIS and replace it with an airworthy part. Remove any flap clevis assembly, P/N K911049–001, –003, or –005, that has 640 or more hours TIS, and replace it with an airworthy part.

(b) This AD revises the Limitations section of the maintenance manual by removing the life limit of 640 hours TIS established for the flap clevis, P/N K911049–021. The life limit for each rotor shaft, P/N K974112–001, –003, –005, –007, –009, and –101 remains at 3,750 hours TIS; the life limit for each teeter pin assembly, P/N K910005–007 and –009, remains at 550 hours TIS; and the life limit for each flap clevis assembly, P/N K911049–001, –003, and –005 remains at 640 hours TIS.

(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, Boston Aircraft Certification Office, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Boston Aircraft Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Boston Aircraft Certification Office.

(d) Special flight permits will not be issued.

(e) This amendment becomes effective on May 27, 2003.

Issued in Fort Worth, Texas, on April 9, 2003.

Michele M. Owsley,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 03–9576 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14044; Airspace Docket No. 02–AGL–22]

Establishment of Class E Airspace; Cavelier, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Cavelier, ND. An area Navigation (RNAV) Standard Instrument Approach procedure (SIAP) has been developed for Cavelier Municipal Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action establishes controlled airspace for Cavelier Municipal Airport.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, Telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, January 17, 2003, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Cavelier, ND (68 FR 2460). The proposal was to establish controlled airspace extending upward from 700 feet or more above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Cavelier, ND, to accommodate aircraft executing instrument flight procedures into and out of Cavelier Municipal Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1. of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL ND E5 Cavelier, ND [New]

Cavelier, Cavelier Municipal Airport, ND
(Lat. 48°47′02″N., long. 97°37′55″W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Cavelier Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on April 1, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–9728 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14047; Airspace Docket No. 02–AGL–20]

Establishment of Class E Airspace; Berrien Springs, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Berrien Springs, MI. An area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) has been developed for Andrews University Airpark, Berrien Springs, MI. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action establishes controlled airspace for Andrews University Airpark.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, January 17, 2003, the FAA proposed to amend 14 CFR part 71 to establish Class E airspace at Berrien Springs, MI (68 FR 2461). The proposal was to establish controlled airspace extending upward from 700 feet or more above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class E airspace at Berrien Springs, MI, to accommodate aircraft executing instrument flight procedures into and out of Andrews University Airpark. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING; POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL MI E5 Berrien Springs, MI [New]

Berrien Springs, Andrews University Airpark, MI
(Lat. 41°57′06″ N., long. 86°22′04″ W.)

That airspace extending upward from 700 feet above the surface within a 8.1-mile radius of Andrews University Airpark, excluding that airspace within the South Bend, IN, Benton Harbor, MI, and Dowagiac, MI, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on April 1, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–9727 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14180; Airspace Docket No. 02–AGL–17]

Modification of Class E Airspace; Saginaw, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Saginaw, MI. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for Jack Barstow Airport, Midland, MI. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of the existing controlled airspace at Jack Barstow Airport.

EFFECTIVE DATE: 0901 UTC, July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Friday, January 17, 2003, the FAA proposed to amend 14 CFR part 71 to modify class E airspace at Saginaw, MI (68 FR 2463). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modified Class E airspace at Saginaw, MI, to accommodate aircraft executing instrument flight procedures into and out of Jack Barstow Airport. The area will be depicted on appropriate aeronautical charts.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulation action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL MI E5 Saginaw, MI [Revised]

MBS International Airport, MI
(Lat. 43°31′58″ N., long. 84°04′47″ W.)
Saginaw County H.W. Browne Airport, MI
(Lat. 43°26′00″ N., long. 83°51′45″ W.)
Bay City, James Clements Municipal Airport, MI
(Lat. 43°32′49″ N., long. 83°53′44″ W.)
Midland, Jack Barstow Airport, MI
(Lat. 43°39′46″ N., long. 84°15′41″ W.)
Saint Mary's Hospital, MI
Point in Space Coordinates
(Lat. 43°24′54″ N., long. 83°56′27″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of MBS International Airport, within a 6.5-mile radius of Saginaw County H.W. Browne Airport, within a 6.4-mile radius of James Clements Municipal Airport, within a 6.4-mile radius of Jack Barstow Airport, and within a 6-mile radius of the Point in Space serving Saint Mary's Hospital.

* * * * *

Issued in Des Plaines, Illinois on April 1, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–9726 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

RIN 1219–AA98 (Phase 6)

Seat Belts for Off-Road Work Machines and Wheeled Agricultural Tractors at Metal and Nonmetal Mines

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

ACTION: Direct final rule; request for comments.

SUMMARY: MSHA is issuing a direct final rule that updates the Agency's requirements for operator restraint systems (seat belts) for off-road work machines and wheeled agricultural tractors at metal and nonmetal mines. The existing standards require seat belts for off-road work machines to meet the requirements of the Society of Automotive Engineers' (SAE) consensus standard SAE J386–1985, and seat belts for wheeled agricultural tractors to meet the requirements of SAE J1194–1983. Since MSHA promulgated these standards, however, the SAE has revised them to reflect technological advances in seat belt design and materials. Seat belts meeting the specifications of earlier versions of these SAE standards are no longer routinely installed by manufacturers. The direct final rule will permit seat belts to meet the requirements of the more recent revisions of the SAE J386 and SAE J1194 standards.

DATES: This direct final rule is effective June 20, 2003, without further notice, unless we receive significant adverse comments by May 21, 2003. If we

receive such comments, we will publish a timely withdrawal of this direct final rule in the **Federal Register**.

The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of June 20, 2003.

ADDRESSES: Clearly identify comments as such and submit them either electronically to *comments@msha.gov;* by facsimile to 202–693–9441; or by regular mail or hand delivery to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939. Comments are posted for public viewing at *www.msha.gov/currentcomments.*

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Director; Office of Standards, Regulations, and Variances, MSHA; Phone: 202–693–9442; FAX: 202–693–9441; E-mail: *nichols-marvin@msha.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Copies of the SAE publications incorporated by reference may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

This direct final rule only updates §§ 56/57.14130, paragraph (h), *Seat belts construction.* MSHA is not updating §§ 56/57.14130, paragraph (b)(2), which also incorporates by reference SAE J1194–1983, because paragraph (b)(2) addresses the construction of roll-over protective structures (ROPS), not seat belts. The construction of ROPS is beyond the scope of this rulemaking.

A. Direct Final Rule and Significant Adverse Comments

MSHA has determined that this rulemaking is suitable for a direct final rule because we do not expect that updating the metal and nonmetal seat belt standards, to include the revised SAE consensus standards, will elicit any significant adverse comments. A significant adverse comment is one that explains (1) Why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach, or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, we will consider whether it warrants a substantive response in a notice and comment process.

Elsewhere in this issue of the **Federal Register**, we are publishing a companion proposed rule under § 553 of the Administrative Procedure Act to speed notice and comment rulemaking should we withdraw this direct final rule. The companion proposed rule and this direct final rule are substantively identical. All interested parties should comment by May 21, 2003, because we will not initiate an additional comment period.

B. Regulatory History

Existing standards §§ 56/57.14130 derived from standards promulgated by MSHA's predecessor, the Mining Enforcement and Safety Administration (MESA) in 1977. Like these existing standards, the standards under MESA required seat belts to meet specific SAE requirements that were incorporated by reference. MSHA's requirements for seat belts at metal and nonmetal mines remained substantively unchanged until 1988.

In 1984, MSHA issued a proposed rule (49 FR 49201) revising the loading, hauling, and dumping standards at metal and nonmetal mines. MSHA had considered removing the incorporation by reference provisions relating to seat belts and accompanying roll-over protective structures (ROPS) on equipment and replace them with performance criteria (49 FR 49201 and 49203). At that time, however, commenters urged MSHA to retain the incorporation by reference and update it.

In 1988, MSHA promulgated final §§ 56/57.14130 for ROPS and seat belts for certain off-road work machines. The final rule (53 FR 32496 and 32524) updated the references to SAE J386–1985 and SAE J1194–1983 to reflect the most current revision. The final rule also added a provision, §§ 56/57.14131, requiring that seat belts on haulage trucks meet the same SAE requirements as MSHA required for seat belts on off-road work machines.

II. Discussion of Seat Belt Requirements

Existing standards §§ 56/57.14130(h) and 56/57.14131(c) require that seat belts for off-road work machines meet the requirements set forth in the Society of Automotive Engineers' (SAE) consensus standard J386–1985. Existing standards §§ 56/57.14130(h) also require that seat belts for agricultural tractors meet SAE consensus standard J1194–1983. These SAE consensus standards are incorporated by reference. Paragraphs §§ 56/57.14130(j) and 56/57.14131(d) contain the required information about the Federal Register's approval of the incorporation by reference and the addresses for examining or obtaining copies.

Compliance Difficulties. MSHA enforcement of its seat belt standards relies on the labeling of seat belts in accordance with the SAE standards. For example, SAE J386–1985 states—

> 4.1.5 Marking (Labeling)—Each seat belt assembly and/or each section of belt assembly shall be permanently and legibly labeled with year of manufacture, model or style number, and name or trademark of manufacturer or importer, and shall state compliance with SAE J386 JUN85, Part II.

Since 1988, however, SAE has updated SAE J386 twice and SAE J1194 three times, each time reaffirming the previous version or incorporating advances in safety technology. Seat belts and assemblies currently manufactured for off-road work machines and haulage trucks comply with SAE J386–1997 and those currently manufactured for tractors comply with SAE J1194–1999. Seat belts meeting the superceded SAE J386–1985 or SAE J1194–1983 standards are no longer available, except through special orders at considerable cost. Consequently, because manufacturers no longer construct or label seat belts in accordance with the outdated SAE standards, mine operators have difficulty complying with MSHA's existing standards.

Equivalent Protection. MSHA bases its requirements for roll-over protective structures (ROPS) and operator restraint systems (seat belts) on technical documents developed by the SAE, a nationally and internationally recognized consensus standards-setting organization. ROPS and seat belts provide a predictable level of performance when their construction meets the specifications of SAE's consensus standards. For example, SAE's testing of seat belt assemblies verifies that the strength and construction under the 1993 and 1997 revisions of SAE J386 meet the minimum requirements set forth by the society. Engineers and safety professionals agree that SAE J386 performance and test requirements provide a safe operator restraint system for off-road work machines commonly used in mining. The direct final rule expands compliance alternatives to accommodate advances in seat belt technology without reducing protection for miners.

Expanded Compliance Alternatives. Newly manufactured replacement seat belts for off-road work machines and

wheeled agricultural tractors, as well as those installed on new off-road machines or tractors, meet the specifications in the most recent SAE consensus standards. The immediate availability of replacement seat belts ''off-the-shelf,'' as opposed to those requiring a special order, speeds replacement, minimizing equipment down time and the enticement to use off-road work machines without compliant seat belts. Also, allowing the use of seat belts meeting other revisions of the SAE standards, rather than only the most recent, allows mine operators to use the supply of replacement seat belts they already have on hand.

Enhanced Safety. The direct final rule improves safety by updating MSHA's standards to allow the use of advances in seat belt technology addressed in the newer industry consensus standards. Many safeguards and improved engineering are integral design features on new products. For example, these revisions address developments, such as tether straps and three and four point systems, which are not included in the 1983 or 1985 revisions. Up-to-date standards are consistent with the goals of the Federal Mine Safety and Health Act of 1977, Executive Order 12866, and the Regulatory Flexibility Act.

III. The Regulatory Flexibility Act, Executive Order 12866, and the Small Business Regulatory Enforcement Fairness Act

In accordance with Executive Order (E.O.) 12866, we have analyzed the estimated costs and benefits associated with this direct final rule, and have included our Regulatory Economic Analysis (REA) in this preamble. This direct final rule is not an economically significant regulatory action under § 3(f)(1) of E.O. 12866.

In accordance with § 605 of the Regulatory Flexibility Act (RFA), we certify that this direct final rule does not have a significant economic impact on a substantial number of small entities. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, we must include the factual basis for this certification in the direct final rule. Accordingly, we are publishing the factual basis for our regulatory flexibility certification statement in the **Federal Register**, as part of this preamble, and are providing a copy to the Small Business Administration (SBA), Office of Advocacy. We also will mail a copy of the direct final rule, including the preamble and certification statement, to metal and nonmetal mine operators and miners' representatives and post it on our Internet Home Page at *www.msha.gov.*

Factual basis for certification. This direct final rule provides at least the same level of protection for miners at a lower cost for mine operators. It affects all 11,641 metal and nonmetal mines, 85.3% (9,928) of which employ fewer than 20 miners and 99.8% (11,618) of which employ 500 or fewer miners (PEIR, CY 2001). It includes no additional costs and has no adverse economic impact on the metal and nonmetal mining industry. To the contrary, there are cost savings associated with not having to special order discontinued, older seat belts and not having to replace those seat belts already installed. The direct final rule also eliminates the burden of preparing and responding to petitions for modification. The advantage of being able to obtain seat belts ''off-the-shelf'' allows mine operators to replace damaged seat belts more quickly, thus reducing machinery and equipment down time which could result in lost production.

IV. Other Regulatory Considerations

A. Paperwork Reduction Act

This direct final rule contains no information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Although the SAE requires seat belts to have a label indicating compliance with a specific SAE consensus standard, these labels are prepared and attached by the seat belt manufacturer. Both mine operators and MSHA use these labels to determine whether the seat belts comply with the appropriate SAE consensus standard.

B. Unfunded Mandates Reform Act of 1995

This direct final rule affects about 220 small metal and nonmetal mines operated by governmental jurisdictions mostly to provide aggregates for the construction and repair of highways and roads. We have determined, for purposes of § 202 of the Unfunded Mandates Reform Act of 1995, that this direct final rule does not include any Federal mandate that may result in increased expenditures by state, local, or tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million. We also determined, for purposes of § 203, that this direct final rule does not significantly or uniquely affect these entities.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This direct final rule is not subject to Executive Order 12630 because it would not involve implementation of a policy with ''takings'' implications.

D. Executive Order 12988: Civil Justice Reform

In accordance with Executive Order 12988, we have determined that this direct final rule will not unduly burden the Federal court system. We wrote the direct final rule to provide a clear legal standard for affected conduct and have reviewed it to eliminate drafting errors and ambiguities.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the environmental health and safety effects of this direct final rule and have determined that it has no adverse effects on children.

F. Executive Order 13132: Federalism

In accordance with Executive Order 13132, we have reviewed this direct final rule and have determined that it does not have ''federalism'' implications.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we certify that this direct final rule does not impose substantial direct compliance costs on Indian tribal governments.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, we have reviewed this direct final rule and have determined that it has no significant adverse effect on the supply, distribution, or use of energy, and no reasonable alternatives to this action are necessary.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the direct final rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. As discussed previously in this preamble, MSHA has determined

that the direct final rule does not have a significant economic impact on a substantial number of small entities.

List of Subjects

30 CFR Part 56

Incorporation by reference, Mine safety and health, Surface mining.

30 CFR Part 57

Incorporation by reference, Mine safety and health, Underground mining.

Dated: April 14, 2003.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

■ For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, MSHA is amending chapter I, parts 56 and 57 of title 30 of the Code of Federal Regulations as follows:

PART 56—[AMENDED]

■ 1. The authority citation for part 56 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 2. Section 56.14130 is amended by revising paragraphs (h) and (j) to read as follows:

§ 56.14130 Roll-over protective structures (ROPS) and seat belts.

* * * * *

(h) *Seat belts construction.* Seat belts required under this section shall meet the requirement of SAE J386, ''Operator Restraint System for Off-Road Work Machines'' (1985, 1993, or 1997), or SAE J1194, ''Roll-Over Protective Structures (ROPS) for Wheeled Agricultural Tractors'' (1983, 1989, 1994, or 1999), as applicable, which are incorporated by reference.

* * * * *

(j) *Publications.* The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

■ 3. Section 56.14131 is amended by revising paragraphs (c) and (d) to read as follows:

§ 56.14131 Seat belts for haulage trucks.

* * * * *

(c) Seat belts required under this section shall meet the requirements of SAE J386, ''Operator Restraint System for Off-Road Work Machines'' (1985, 1993, or 1997), which are incorporated by reference.

(d) The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

PART 57—[AMENDED]

■ 4. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 5. Section 57.14130 is amended by revising paragraphs (h) and (j) to read as follows:

§ 57.14130 Roll-over protective structures (ROPS) and seat belts for surface equipment.

* * * * *

(h) *Seat belts construction.* Seat belts required under this section shall meet the requirement of SAE J386, ''Operator Restraint System for Off-Road Work Machines'' (1985, 1993, or 1997), or SAE J1194, ''Roll-Over Protective Structures (ROPS) for Wheeled Agricultural Tractors'' (1983, 1989, 1994, or 1999), as applicable, which are incorporated by reference.

* * * * *

(j) *Publications.* The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

■ 6. Section 57.14131 is amended by revising paragraphs (c) and (d) to read as follows:

§ 57.14131 Seat belts for surface haulage trucks.

* * * * *

(c) Seat belts required under this section shall meet the requirements of SAE J386, ''Operator Restraint System for Off-Road Work Machines'' (1985, 1993, or 1997), which are incorporated by reference.

(d) The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

[FR Doc. 03–9657 Filed 4–18–03; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 71 and 75

RIN: 1219–AA98 (Phase 9)

Standards for Sanitary Toilets in Coal Mines

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

ACTION: Direct final rule; request for comments.

SUMMARY: MSHA is removing an application and approval requirement from existing mandatory standards. Currently, MSHA must approve sanitary toilets for use in underground coal mines, and MSHA and the National Institute for Occupational Safety and Health (NIOSH) must jointly approve sanitary toilets for use in surface coal mines. MSHA and NIOSH base their approval on criteria drawn from the American National Standard Institute's (ANSI's) *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements.* MSHA is amending its regulations to state which sanitary toilets meet the standard in order to eliminate the need for an application for

approval and its associated paperwork burden. This action also directly informs manufacturers, mine operators, miners, and miners' representatives about which sanitary toilets meet the standard. Removing the application requirements has no substantive effect on the sanitation standards.

DATES: This direct final rule is effective June 20, 2003 without further notice, unless MSHA receives significant adverse comment by May 21, 2003. If MSHA receives such comment, the Agency will publish a timely withdrawal of this direct final rule in the **Federal Register.**

ADDRESSES: Clearly identify comments as such and submit them either electronically to *comments@msha.gov;* by facsimile to 202–693–9441; or by regular mail or hand delivery to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209–3939. Comments are posted for public viewing at *http://www.msha.gov/currentcomments.htm.*

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Director; Office of Standards, Regulations, and Variances, MSHA; Phone: 202–693–9442; FAX: 202–693–9441; E-mail: *nichols-marvin@msha.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction.

The Office of Management and Budget's (OMB's) current approval for §§ 71.500 and 75.1712–6 under control number 1219–0101 expires on November 30, 2003. OMB approval was contingent on MSHA initiating rulemaking ''to update and simplify this standard with the goal of eliminating unnecessary requirements and reducing the unnecessary burdens.'' In response to OMB concerns, MSHA developed this direct final rule to eliminate the need for applications for approval of sanitary toilets and their associated paperwork burden. This direct final rule does not address any other aspect of MSHA's standards for sanitary facilities at coal mines. Sanitary toilet facilities for surface work areas of underground mines remain subject to the provisions of 30 CFR 75.1712–3, which is unchanged.

Direct Final Rule and Significant Adverse Comments

MSHA has determined that this rulemaking is suitable for a direct final rule because we do not expect to receive any significant adverse comments. A significant adverse comment is one that explains (1) why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach, or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of this direct final rule, MSHA will consider whether it warrants a substantive response in a notice and comment process.

Elsewhere in this issue of the **Federal Register,** we are publishing a companion proposed rule under § 553 of the Administrative Procedure Act to speed notice and comment rulemaking should we withdraw this direct final rule. The companion proposed rule and this direct final rule are substantively identical. All interested parties should comment by May 21, 2003 because we will not initiate an additional comment period.

II. Background Discussion of Existing Standards

A. Regulatory History

MSHA originally promulgated sanitation standards under the Federal Coal Mine Health and Safety Act of 1969. The Mining Enforcement and Safety Administration (MESA), MSHA's predecessor, promulgated 30 CFR 75.1712–6 on November 20, 1970 (35 FR 17890) and 30 CFR 71.500 on March 28, 1972 (37 FR 6368). No substantive changes have been made to either provision since that time.

Under existing standards, MSHA approves sanitary toilets for installation and use on an industry-wide basis, not on a mine-by-mine basis. MSHA issues three types of approvals: for surface work sites only, for underground work sites only, or for both surface and underground work sites. Once granted, the approval does not expire. Although some of the manufacturers and distributors of approved sanitary toilets are no longer in business, MSHA accepts these approved sanitary toilets as long as they are properly maintained.

B. Existing Application for Approval Process

The existing standards' requirements for an application for approval of a sanitary toilet can pose an unnecessary burden on manufacturers and mine operators. To effectively evaluate a sanitary toilet for use at a coal mine, MSHA requires that the application for approval contain—

Information about the unit and its manufacturer;

Instructions for operation and maintenance;

Technical or performance test data; and

Other information that may help in evaluating the unit's practicality for use in coal mining, such as information about the appropriateness and durability of the sanitary toilet for use underground.

C. MSHA and MSHA/NIOSH Approval Criteria

When reviewing the application for approval, MSHA and NIOSH review and evaluate the sanitary features of each toilet for the use intended. Currently, MSHA and NIOSH use portions of the American National Standard Institute's (ANSI's) *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements,* ANSI Z4.3–1987 (Reaffirmed 1995), as the criteria for evaluating these sanitary features. At a minimum, MSHA and NIOSH use the definitions for the various types of toilets and components of the toilet facility in Section 2; the general requirements for auxiliary features in Sections 3.7, 3.8, and 3.9; and the specific design criteria in Section 7.

Exceptions. Although a privy is listed in ANSI Z4.3–1987 (Reaffirmed 1995), MSHA does not approve the use of a privy at any coal mine because sewage could seep through the earth walls and contaminate ground water, earth walls could fail under the harsh conditions at a coal mine, and rain and run-off could flood the privy causing it to overflow and contaminate the mine. MSHA does not approve combustion or incinerating toilets underground because they can create a fire hazard by introducing an ignition source. MSHA does not require a toilet paper holder on unenclosed sanitary toilets underground because it is impractical.

D. Types of Approved Sanitary Toilets

The following table contains excerpts from ANSI Z4.3–1987 (Reaffirmed 1995) for those types of sanitary toilets that are approved for use in coal mines. MSHA will consider any toilet facility that is one of the types of toilets listed in the Agency's revised standards and meets these same criteria, to be in compliance.

Definitions (ANSI Z4.3 Section 2)	Types of toilet facilities (ANSI Z4.3 Section 7)
2.2.2 A vault toilet facility is one wherein the waste is deposited without flushing in a permanently installed, watertight, below-ground container.	7.1.1. The vault-toilet tank shall be durable and corrosion-resistant and shall provide a minimum capacity of 378 L (100 gal) per seat. 7.1.2. Where a caustic chemical issued, the charge per seat shall be a minimum of 11.3 kg (25 lbs.) of caustic dissolved in 37.5 L (10 gal) of water. 7.1.3. The chemical shall be drained and the receptacle recharged every 6 months when in continuous use, or at least at the beginning of each season of operation when in intermittent use, or when three-fourths full, whichever occurs first. 7.1.4. Tanks shall be vented to the outside with a minimum nominal venting area of 45 cm^2 (7 in^2). 7.1.5. The tank shall be equipped with a manhole external to the structure for cleaning and for removal of caustic chemicals. The manhole shall be covered so as to prevent escape of gases and odors.
Sealed-Bag Toilet	
2.2.3 A sealed-bag toilet facility is one wherein the waste of each user is deposited, without flushing, into a bag, generally plastic, which is then sealed for later disposal. The structure housing a sealed-bag-toilet facility may be permanent or portable.	7.2.1. All materials and fittings shall be corrosion resistant. 7.2.2. The bag shall be made of material of sufficient strength so as not to leak and, once sealed, so as to retain the waste until such time as the bag is removed from the toilet for disposal.
Combustion or Incinerating Toilet	
2.3 A combustion- or incinerating-toilet facility is one wherein the waste is deposited, with or without flushing, into a combustion chamber, where it is incinerated. The structure housing a combustion- or incinerating-toilet facility may be permanent or portable.	7.3.1 All external surfaces, including bowl and hopper, shall be easy to clean. 7.3.2. The residue of combustion or incineration shall be sterile and inert. 7.3.3. The flue effluents shall be free of viable bacteria. 7.3.4. The combustion system and all fuel and electrical parts shall be safe and in compliance with applicable gas and electrical codes of local authorities. Where such codes do not exist, the installation shall comply with American National Standard National Electrical Code, ANSI/NFPA 70–1987, or with American National Standard for Gas-Fired Toilets, ANSI Z21.61–1983, and American National Standard National Fuel Gas Code, ANSI Z223.1–1984 and ANSI Z223.1a–1987.
Chemical Toilet and Biological Toilet	
2.2.1 A chemical-toilet facility is a nonflush-toilet facility wherein the waste is deposited directly into a container containing a solution of water and chemical. It may be housed in a permanent or portable structure. 2.4 A biological-toilet facility is one wherein the waste is deposited, with or without flushing, into a waste container integral to the toilet facility, where it is treated by means of biological agents or aeration.	7.4.1. Waste containers shall be fabricated from nonabsorbent, watertight materials. 7.4.2. Portable chemical and biological toilets and urinals that are free-standing and not installed in a toilet room do not require a ventilation system. 7.4.3. Chemicals or biological agents, if used in the waste container, shall be in accordance with applicable federal, state, and local provisions.
Nonwater-Flush Toilet	
2.1.2 A nonwater-flush-toilet facility is one wherein the waste is flushed from the bowl and the bowl cleansed by a fluid other than water, with the fluid deposited in a container or receptacle, or treated and recirculated as in 2.1.1; such facilities include, but are not limited to, oil-flush-toilet facilities.	7.5.1. All materials such as bowl, piping, and fittings that are in contact with waste and chemicals shall be nonabsorbent and corrosion-resistant. 7.5.2. Waste passages shall have smooth surfaces and shall be free of obstructions, recesses, or chambers that would permit fouling. 7.5.3. Flushing shall be accomplished by controls operable without special knowledge. Upon flushing, fluid shall enter the bowl and pass through with a vigorous flow sufficient to carry the waste from the bowl into the waste container. 7.5.4. Chemicals, if used in the waste container, shall be in accordance with applicable local, state, and federal provisions.
Water-Flush Toilet	
2.1.1 A water-flush-toilet facility is one wherein the waste is carried from the bowl and the bowl cleansed by water, and the combined water and waste is deposited into a container or receptacle, or recirculated by a closed system for flushing purposes; such facilities include, but are not limited to, vacuum-toilet facilities.	7.6.1. All materials such as bowl, piping, and fittings that are in contact with waste and chemicals shall be nonabsorbent and corrosion-resistant. 7.6.2. Waste passages shall have smooth surfaces and shall be free of obstructions, recesses, or chambers that would permit fouling. 7.6.3. Flushing shall be accomplished by controls operable without special knowledge. 7.6.4. Chemicals, if used, shall be in accordance with applicable local, state, and federal provisions.

Source: American National Standard Institute (ANSI), *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements,* (ANSI Z4.3–1987) (Reaffirmed 1995).

III. Section-by-Section Discussion

The following section-by-section discussion explains the direct final rule's revisions to the existing standards. The direct final rule provides the same level of protection for miners as the existing standards because it guarantees that sanitary toilets meet the same requirements as those which were approved through the existing application process. It has no substantive effect on the sanitation standards at coal mines.

A. 30 CFR 71.500 for Surface Coal Mines

Existing § 71.500 requires all surface coal mine operators' to provide at least one approved sanitary toilet at a location convenient to each surface work site and one additional approved sanitary toilet for each 10 miners working at a location. MSHA and NIOSH jointly approve sanitary toilets for use at surface mines.

The direct final rule eliminates the application for approval requirement and its associated paperwork burden, and provides notice of which types of sanitary toilets may be used by listing them directly in the standard. The direct final rule also requires sanitary toilets to have a toilet paper holder with an adequate supply of toilet paper and a toilet seat with a hinged lid, as is required in Section 3 of ANSI Z4.3–1987 (Reaffirmed 1995); and prohibits the use of privies.

NIOSH has reviewed this direct final rule and concurs that the application for approval requirements can be removed without reducing protection for miners. NIOSH also agrees that the direct final rule does not change the criteria for the sanitary toilets. MSHA has incorporated NIOSH's comments in this regulatory action.

B. 30 CFR 75.1712–6 for Underground Coal Mines

Existing § 75.1712–6 requires all underground coal mine operators to provide and maintain one approved sanitary toilet in a dry location under protected roof within 500 feet of each working place where miners regularly work. Under the existing standard, MSHA must approve sanitary toilets for use at underground locations.

The direct final rule eliminates the application requirement and its associated paperwork burden, and provides notice of which types of sanitary toilets may be used by listing them directly in the standard. The direct final rule also requires sanitary toilets to have a toilet paper holder with an adequate supply of toilet paper and a toilet seat with a hinged lid, as is required in Section 3 of ANSI Z4.3–1987 (Reaffirmed 1995); prohibits privies and combustion or incinerating toilets underground; and removes the obsolete December 30, 1970, effective date.

IV. The Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, and Executive Order 12866

In accordance with Executive Order (E.O.) 12866, MSHA has analyzed the estimated costs and benefits associated with this direct final rule, and has included its Regulatory Economic Analysis (REA) in this preamble. This direct final rule includes no additional costs for the mining industry and eliminates the costs associated with filing an application for approval. This direct final rule is not an economically significant regulatory action under § 3(f)(1) of E.O. 12866.

In accordance with § 605 of the Regulatory Flexibility Act (RFA), MSHA certifies that this direct final rule does not have a significant economic impact on a substantial number of small entities. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, the Agency must include the factual basis for this certification in the direct final rule. Accordingly, the Agency is publishing the factual basis for its regulatory flexibility certification statement in the **Federal Register**, as part of this preamble, and is providing a copy to the Small Business Administration (SBA), Office of Advocacy. MSHA also will mail a copy of the direct final rule, including the preamble and certification statement, to coal mine operators and miners' representatives and post it on the Agency's Internet Home Page at *http://www.msha.gov.*

Factual basis for certification.

MSHA is issuing a direct final rule amending 30 CFR parts 71 and 75, concerning applications for approval of sanitary toilets. The Agency is amending its regulations to state which sanitary toilets meet the standard in order to eliminate the need for underground and surface coal mines to file an application for approval and to avoid the associated cost and paperwork burden.

Manufacturers are the primary applicants for MSHA or MSHA/NIOSH approval of sanitary toilets. In the last four years, seven manufacturers of portable toilets filed applications to request approval of sanitary toilets. During this same period, only one mine operator filed an application to request approval of sanitary toilets. MSHA expects that the number and distribution of applications over the past four years is representative of future applications in the absence of this direct final rule. MSHA therefore estimates that, on average, in the absence of the direct final rule, portable toilet manufacturers will file 1.75 applications each year, and mine operators will file 0.25 applications each year.

Traditionally, MSHA has considered a small mine to be one with fewer than 20 employees. Based on MSHA's definition, the mine operator is considered large because it employs 20 or more workers. The Small Business Administration (SBA) definition for a small business in the mining industry is one with 500 or fewer employees. The mine operator that filed the application is considered a small business by SBA's definition in that it employs fewer than 500 workers. Based on SBA's definition, manufacturers of portable toilets (plastics), NAICS Code 326191 (SIC Code 3088), are defined as small if they have fewer than 500 employees. All of the portable toilet manufacturers are small businesses, according to SBA, because each employs fewer than 500 workers.[1]

Compliance Costs

Cost savings from this direct final rule accrue to sanitary toilet manufacturers and mine operators because they will no longer have to file an application for approval of sanitary toilets. Cost savings from this rule are estimated at $407 annually. The cost savings are based upon the elimination of the filing of an average of 1.75 applications per year by manufacturers and 0.25 applications per year by mine operators. For the manufacturers, cost savings will be $296 annually. For the mine operator, cost savings will be $111 annually.

The annual cost savings of $296 for manufacturers is derived in the following manner. On average, a first-line supervisor at a toilet manufacturing facility, earning $20.82 per hour,[2] takes 8 hours to prepare an application (1.75 applications × 8 hours × $20.82 per hour = $291.48). In addition, a clerical worker, earning $12.66 per hour,[3] takes

[1] Small Business Administration, Small Business Size Standards Matched to North American Industry Classification System (NAICS), Effective July 1, 2002. *(http://www.sba.gov/size/sizetable.html).*

[2] U.S. Department of Labor, Bureau of Labor Statistics, Career Guide to Industries—Chemicals Manufacturing, Except Drugs. *(http://www.bls.gov/oco/cgs/cgs008.htm).*

[3] U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics—

0.1 hour to copy and mail an application (1.75 applications × 0.1 hour × $12.66 per hour = $2.22). Furthermore, MSHA estimates that, on average, each application is two pages long, photocopying costs are $0.15 per page, and postage is $1 [1.75 applications × ((2 pages × $0.15 per page) + $1) = $ 2.28].

The annual cost savings of $111 for the mine operator is derived in the following manner. On average, a mine supervisor, earning $54.92 per hour, takes 8 hours to prepare an application (0.25 application × 8 hours × $54.92 per hour = $109.84). In addition, a clerical worker, earning $19.58 per hour, takes 0.1 hour to copy and mail an application (0.25 application × $0.1 hour × $19.58 per hour = $ 0.49). Furthermore, MSHA estimates that, on average, each application is two pages long, photocopying costs are $0.15 per page, and postage is $1 [0.25 application × ((2 pages × $0.15 per page) + $1) = $0.33].

This direct final rule eliminates the application process and provides simple compliance information directly to the public, thus eliminating the annual cost burden.

V. Paperwork Reduction Act.

This direct final rule contains no additional information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Consequently, the information collection currently approved by OMB under control number 1219–0101 will no longer be necessary and will be withdrawn.

This direct final rule will result in 16 annual burden hour savings and associated annual burden cost savings of $404 related to elimination of 2 applications annually for sanitary toilets. Of this total, for the 1.75 portable toilet manufacturers, there will be 14 burden hours savings annually and associated annual burden costs savings of $294. For the 0.25 mine operators, there will be 2 burden hours savings annually and associated annual burden cost savings of $110.

The annual reduction of 14 burden hours and the $294 annual burden costs savings for the 1.75 portable sanitary toilet manufacturers are derived in the following manner. On average, a first-line supervisor at a toilet manufacturing facility, takes 8 hours to prepare an application (1.75 applications × 8 hours = 14 hours). In addition, a clerical worker takes 0.1 hour (or 6 minutes) to copy and mail an application (1.75 applications × 0.1 hour = 0.18 hours). The hourly wage rate for a first-line supervisor at a portable toilet manufacturing facility is $20.82 ($20.82 × 14 burden hours = $291.48). The hourly wage rate for a clerical worker (billing and posting clerks) is $12.66 ($12.66 × 0.18 burden hours = $2.28).

The annual reduction of 2 burden hours and the $110 annual burden costs savings for the 0.25 mines are derived in the following manner. On average, a mine supervisor takes 8 hours to prepare an application (0.25 applications × 8 hours = 2 hours). In addition, a clerical worker takes 0.1 hour (or 6 minutes) to copy and mail an application (0.25 applications × 0.1 hour = 0.03 hour). The hourly wage rate for a mine supervisor is $54.92 ($54.92 × 2 hours = $109.84). The hourly wage rate for a clerical worker is $19.58 ($19.58 × 0.03 hours = $0.58).

This direct final rule removes this burden by eliminating the application process and providing information directly to the public.

VI. Other Regulatory Considerations

A. The National Environmental Policy Act of 1969

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires each Federal agency to consider the environmental effects of its actions. This direct final rule has no environmental impact because it has no substantive effect on the existing standards.

B. Unfunded Mandates Reform Act of 1995

We have determined, for purposes of § 202 of the Unfunded Mandates Reform Act of 1995, that this direct final rule does not include any Federal mandate that may result in increased expenditures by state, local, or tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million. We also determined, for purposes of § 203, that this direct final rule does not significantly or uniquely affect these entities.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This direct final rule is not subject to Executive Order 12630 because it would not involve implementation of a policy with ''takings'' implications.

D. Executive Order 12988: Civil Justice Reform

In accordance with Executive Order 12988, we have determined that this direct final rule will not unduly burden the Federal court system. We wrote the direct final rule to provide a clear legal standard for affected conduct and have reviewed it to eliminate drafting errors and ambiguities.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the environmental health and safety effects of this direct final rule and have determined that it has no adverse effects on children.

F. Executive Order 13132: Federalism

In accordance with Executive Order 13132, we have reviewed this direct final rule and have determined that it does not have ''federalism'' implications.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we certify that this direct final rule does not impose substantial direct compliance costs on Indian tribal governments.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, we have reviewed this direct final rule and have determined that it has no effect on the production or price of coal. Consequently, it has no significant adverse effect on the supply, distribution, or use of energy, and no reasonable alternatives to this action are necessary.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the direct final rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. As discussed previously in this preamble, MSHA has determined that the direct final rule does not have a significant economic impact on a substantial number of small entities.

2001 National Occupational Employment and Wage Estimates. *(http://www.bls.gov/oes/2001/oes433021.htm).*

List of Subjects

30 CFR Part 71

Coal mines, Mine safety and health, Surface mining.

30 CFR Part 75

Coal mines, Mine safety and health, Underground mining.

Dated: April 15, 2003.

John R. Correll,

Deputy Assistant Secretary for Mine Safety and Health.

■ For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, MSHA is amending chapter I, parts 71 and 75, of title 30 of the Code of Federal Regulations as follows:

PART 71—[AMENDED]

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 30 U.S.C. 811, 951, 957.

■ 2. Section 71.500 is revised to read as follows:

§ 71.500 Sanitary toilet facilities at surface work sites; installation requirements.

(a) Each operator of a surface coal mine shall provide and install at least one sanitary toilet in a location convenient to each surface work site. A single sanitary toilet may serve two or more surface work sites in the same surface mine where the sanitary toilet is convenient to each such work site.

(b) Where 10 or more miners use such toilet facilities, sufficient toilets shall be furnished to provide approximately one sanitary toilet for each 10 miners.

(c) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue.

(d) Only flush or nonflush chemical or biological toilets, combustion or incinerating toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies are prohibited.

(**Note to § 71.500:** Sanitary toilet facilities for surface work areas of underground mines are subject to the provisions of § 75.1712–3 of this chapter.)

PART 75—[AMENDED]

■ 3. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

■ 4. Section 75.1712–6 is revised to read as follows:

§ 75.1712–6 Underground sanitary facilities; installation and maintenance.

(a) Except as provided in § 75.1712–7, each operator of an underground coal mine shall provide and maintain one sanitary toilet in a dry location under protected roof, within 500 feet of each working place in the mine where miners are regularly employed during the mining cycle. A single sanitary toilet may serve two or more working places in the same mine, if it is located within 500 feet of each such working place.

(b) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue, except that a toilet paper holder is not required for an unenclosed toilet facility.

(c) Only flush or nonflush chemical or biological toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies and combustion or incinerating toilets are prohibited underground.

[FR Doc. 03–9655 Filed 4–18–03; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AD03

Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), Document Incorporated by Reference for Fixed Platforms

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: MMS is publishing this final rule to incorporate by reference into our regulations the 21st edition of American Petroleum Institute Recommended Practice 2A (API RP 2A), ''Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design.'' The updated document, 21st edition, will replace the 19th and 20th editions of API RP 2A, which are already incorporated by reference into MMS regulations.

EFFECTIVE DATE: This rule becomes effective on May 21, 2003. The incorporation by reference of the publication listed in the regulation is approved by the Director of the Federal Register as of May 21, 2003.

FOR FURTHER INFORMATION CONTACT: Carl Anderson, Physical Scientist, at (703) 787–1608; or Joseph Levine, Chief, Operations Analysis Branch, at (703) 787–1033 or FAX (703) 787–1555.

SUPPLEMENTARY INFORMATION: The updated document, 21st edition, was published as part of a proposed rule. In that rule, MMS proposed to amend Subpart I of 30 CFR Part 250 and to incorporate into our regulations nine industry standards pertaining primarily to floating production platforms. MMS believes it is important to expedite incorporating by reference the 21st edition of API RP 2A ahead before the other standards since the overwhelming majority of platforms on the OCS are fixed platforms. Thus, we are preparing a separate final rule to update the document incorporated by reference relating to fixed platforms under the RIN 1010–AD03, and will publish a final rule incorporating the other eight standards on floating production platforms under the RIN 1010–AC85. Incorporating the 21st edition will immediately correct the deficiencies that the API workgroup identified in the 19th and 20th editions of API RP 2A. This will streamline the permitting of all fixed platforms so that OCS lessees and operators and MMS engineers will not have to continue to perform the corrective calculations and procedures called for in NTL No. 98–1N and NTL No. 98–4N.

Additional immediate benefits of adopting the 21st edition of API RP 2A are that it (1) greatly strengthens the Section 2 design criteria analysis methods and Section 3 structural steel analysis requirements; (2) strengthens procedures for analyzing minimum and special structures in Section 16 with respect to the Section 2 design criteria analysis methods; (3) reinforces the connection between Section 16 design loads and analyses for minimum and special structures with respect to Section 5 fatigue analysis methods; and (4) contains assessment procedures in Section 17 for existing platforms. Neither the 19th edition nor the 20th edition of API RP 2A included assessment procedures for existing platforms. The December 1996 Supplement 1 to the 20th edition of API RP 2A included Section 17, Assessment of Existing Platforms, and has been used by industry since that time.

The 21st edition provided the rationale for revising much of Subpart I—Platforms and Structures—that was described in the proposed rulemaking of December 27, 2001 (66 FR 66851–66865). The API RP 2A deals with bottom-founded structures which, until the proposed rulemaking, have been the primary focus of Subpart I. After publishing this rule, MMS will cancel two National Notices to Lessees and Operators (NTLs) related to the 19th and 20th editions of API RP 2A, NTL No. 98–1N, ''Interim Guidance for Applying Platform Design Criteria''; and NTL No.

98–4N ''Interim Guidance 'Simplified Fatigue Analysis' Procedure.''

The two NTLs to be cancelled were published in cooperation with the API RP 2A industry workgroup to provide guidance on either applying or recalculating certain design criteria specified in the 19th and 20th editions of API RP 2A. There were certain insufficient or erroneous design criteria in both the 19th and 20th editions of API RP 2A related to various structures and the water depths and wind conditions in which they were to operate. Once the 21st edition of API RP 2A is incorporated into the regulations, the NTLs will not be necessary.

Discussion and Analysis of Comments

Eight organizations submitted nine comments on the proposed rulemaking. Commenters included the American Bureau of Shipping (ABS); the Offshore Operator's Committee (OOC); Shell Exploration & Production Company (Shell), which commented twice; the Independent Petroleum Association of America (IPAA); the National Ocean Industries Association (NOIA); ChevronTexaco; Newfield Exploration Company (Newfield); and ATP Oil & Gas Corporation (ATP). In all, MMS identified 22 issues raised by these respondents. Nearly all are either related to adoption of the other eight industry standards covered in the December 27, 2001, NPR; the approval procedures for floating production platforms; or the proposed rewrite of Subpart I. All of these comments will be discussed in a separate final rule.

Industry has had years of experience applying API RP 2A on the OCS, and no respondent objected to the adoption of the 21st edition of API RP 2A. The ABS raised one technical issue related to its adoption, as follows:

> The document adopts the API–RP2A–WSD [working stress design]. Is the API–RP2A–LRFD [load and resistance factors design] not acceptable at this time for any application? Some of the requirements in API–RP2A–LRFD, such as hydrostatic collapse of tubular members for deepwater applications, may be more reasonable than those in WSD. If acceptable, guidance in the regulations should specify load and resistance factors.

Since the early 1980s, MMS has followed the policy currently outlined in §§ 250.141 and 250.142 of our operating regulations, whereby we promote the use of technology or innovative practices that are not necessarily covered in our regulations. For example, § 250.141 tells the lessee or operator that ''You may use alternate procedures or equipment after receiving approval as described in this section.'' The approval must be in writing from either the MMS District or Regional Supervisor. Paragraph (a) of § 250.141 requires that ''Any alternate procedures or equipment that you propose to use must provide a level of safety and environmental protection that equals or surpasses current MMS requirements.'' Paragraph (c) of § 250.141 requires that the lessee or operator submit information or provide an oral presentation to describe the site-specific applications, performance characteristics, and safety features of the alternate procedures or equipment. Also, under § 250.142, the lessee or operator may submit a written request to the District or Regional Supervisor for an approval to depart from current MMS operating regulations.

Thus, if a lessee or operator believes that the load and resistance factor design (LRFD) version of API RP 2A is more appropriate for its proposed platform than the working stress design (WSD) version, the lessee or operator may submit its arguments to use the former under §§ 250.141 and 250.142 of MMS operating regulations.

Procedural Matters

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and is not subject to review by OMB under Executive Order 12866.

(1) The rule will not 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. The overall effect of the rule will not create an adverse effect upon the ability of the United States offshore oil and gas industry to compete in the world marketplace, nor will the rule adversely affect investment or employment factors locally. The economic analysis for this rule is available from the Department of the Interior; Minerals Management Service; Operations Analysis Branch; Mail Stop 4022; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Carl W. Anderson.

(2) This rule will not create inconsistencies with other agencies' actions. This rule does not change the relationships of the OCS oil and gas leasing program with other agencies' actions. These relationships are all encompassed in agreements and memorandums of understanding that will not change with this rule.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. There are precedents for actions of this type under past lease stipulations and regulations dealing with safety provisions under the OCS Lands Act.

Regulatory Flexibility (RF Act)

The Department of the Interior certifies that this proposed rule will not have a significant economic effect on a substantial number of small entities under the RF Act (5 U.S.C. 601 *et seq.*). This rule applies to all lessees that operate on the OCS. Small lessees that operate under this rule would fall under the Small Business Administration's (SBA) North American Industry Classification System Codes 211111, Crude Petroleum and Natural Gas Extraction and 213111, Drilling Oil and Gas Wells. For the purposes of this section, the ''small entity'' is considered to be an individual, limited partnership, or small company, considered to be at ''arm's length'' from the control of any parent company, with fewer than 500 employees. Mid-size and large corporations and partnerships under their direct control have access to lines of credit and internal corporate cash flows that are not available to the ''small entity.'' Some of the operators MMS regulates under the OCS oil and gas leasing program are considered small entities. We estimate that of the 130 lessees that explore for and produce oil and gas on the OCS, approximately 90 are small businesses (70 percent). The 21st edition of API RP 2A will reduce the costs of new platforms to these lessees, because the 21st edition allows lower-cost design criteria for platforms that have lower ''consequences of failure.'' Thus, an unmanned platform can be built with lower-cost design criteria than a manned platform. Under the 19th and 20th editions of API RP 2A, both unmanned and manned platforms had to be built under high-cost design criteria. Therefore, MMS concludes that this final rule will have a beneficial effect on small operators.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small business 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 MMS, call toll-free (888) 734–3247.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under (5 U.S.C. 804(2)), SBREFA. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or ability of United States-based enterprises to compete with foreign-based enterprises. The 21st edition of API RP 2A will reduce the costs of new platforms to these lessees, because it allows lower-cost design criteria for platforms that have lower ''consequences of failure.'' Thus, an unmanned platform can be built with lower-cost design criteria than a manned platform. Under the 19th and 20th editions of API RP 2A, both unmanned and manned platforms had to be built under high-cost design criteria. Therefore, MMS concludes that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act (PRA) of 1995

The revision to a section of Subparts A and I of 30 CFR 250 will simplify, to a modest degree, the information collection (IC) aspects of MMS regulations. These are currently approved under OMB control numbers 1010–0114 (Subpart A) and 1010–0058 (Subpart I). For purposes of only incorporating by reference the 21st edition of API RP 2A into MMS regulations, MMS did not submit an information collection request (ICR) to OMB for these sections.

This final rule incorporates by reference into MMS regulations the 21st edition of API RP 2A in place of the 19th and 20th editions and a supplement to the 20th edition that are currently listed in § 250.198(e). By incorporating the 21st edition, MMS will actually reduce the paperwork burden for lessees and operators, because they will no longer have to refer to NTLs No. 98–1N and 98–4N to correct the deficiencies that API has acknowledged exist in the 19th and 20th editions of API RP 2A.

Potential respondents are approximately 130 Federal OCS lessees and operators and Certified Verification Agents or other third-party reviewers of fixed and floating platforms. Responses are mandatory. The frequency of response varies by section, but is primarily on occasion or annually. The IC does not include questions of a sensitive nature. MMS will protect information considered proprietary according to 30 CFR 250.196 (Data and information to be made available to the public) and 30 CFR part 252 (OCS Oil and Gas Information Program).

MMS will use the information collected and records maintained under current Subpart I regulations to determine the structural integrity of all fixed platforms and to ensure that such integrity will be maintained throughout the useful life of these structures. The information is necessary to determine that platforms and structures are sound and safe for their intended purpose and the safety of personnel and pollution prevention. As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden in this final rule. You may submit your comments directly to the Office of Information and Regulatory Affairs, OMB. Please send a copy of your comments to MMS so that MMS can use them in future paperwork burden analyses of our regulations. Refer to the **ADDRESSES** section for mailing instructions.

The current OMB control numbers are 1010–0114 (subpart A) and 1010–0058 (subpart I).

a. MMS specifically solicits comments on the following questions:

(1) Is the collection of information necessary for MMS to properly perform its functions, and will it be useful?

(2) Are the estimates of the burden hours of the collection reasonable?

(3) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(4) Is there a way to minimize the information collection burden on those who are to respond, including the use of appropriate automated electronic, mechanical, or other forms of information technology?

b. In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping ''non-hour'' cost burden resulting from the collection of information. MMS has not identified any and solicits your comments on this item. For reporting and recordkeeping only, your response should split the cost estimate into two components: (1) The total capital and startup cost component, and (2) annual operation, maintenance, and purchase of services component. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Generally, your estimates should not include equipment or services purchased before October 1, 1995, to comply with requirements not associated with the information collection, for reasons other than to provide information or keep records for the Government, or as part of a usual and customary business or private practice.

Unfunded Mandate Reform Act (UMRA) of 1995 (Executive Order 12866)

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. A statement containing the information required by the UMRA (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implications Assessment (Executive Order 12630)

According to Executive Order 12630, the rule does not have significant Takings implications. A Takings Implication Assessment is not required. Based on our Paperwork Burden analysis and our economic analysis for this rule, which will incorporate by reference the 21st edition of API RP 2A into MMS regulations, the annual incremental cost of complying with this regulation for approximately 98 businesses will be negligible. These businesses are already complying with the requirements of the 19th and 20th editions of API RP 2A, and upgrading to the 21st edition will only simplify the requirements. Therefore, this rule will not result in any takings, and the Department of the Interior does not need to prepare a Takings Implication Assessment under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The rule will not take away or restrict a lessee's right to develop an OCS oil and gas lease according to the lease terms.

Federalism (Executive Order 13132)

According to Executive Order 13132, this rule does not have Federalism implications. This rule will not substantially or directly affect the relationship between the Federal and State governments because it deals strictly with technical standards that the offshore oil and gas industry must use in designing, fabricating, and installing

fixed offshore facilities. This rule will not impose costs on States or localities, nor will it require any action on the part of States or localities.

Civil Justice Reform (Executive Order 12988)

According to Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

National Environmental Policy Act (NEPA)

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. MMS has analyzed this rule under the criteria of the NEPA and 516 Departmental Manual 6, Appendix 10.4C(1). MMS completed a Categorical Exclusion Review for this action on November 20, 2000, and concluded that ''the rulemaking does not represent an exception to the established criteria for categorical exclusion; therefore, preparation of an environmental analysis or environmental impact statement will not be required.''

Consultation and Coordination With Indian Tribal Governments (Executive Order 13175)

In accordance with Executive Order 13175, this rule does not have tribal implications that impose substantial direct compliance costs on Indian tribal governments.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: April 8, 2003.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

■ For the reasons stated in the preamble, Minerals Management Service (MMS) amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

■ 1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331, *et seq.*

■ 2. In § 250.198, in the table in paragraph (e), the following changes are made:

■ A. Remove entries for API RP 2A, 19th Edition; API RP 2A, 20th Edition; and API RP 2A, 20th Edition, Supplement 1.

■ B. Add the entry for API RP 2A, 21st Edition, as follows:

§ 250.198 Documents incorporated by reference.

* * * * *

(e) * * *

Title of document	Incorporated by reference at
* * * * * * *	
API RP 2A–WSD, Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design; Twenty-first Edition, December 2000 (API Order No. G2AWSD).	§ 250.900(g); § 250.912(a).
* * * * * * *	

■ 3. In § 250.900, revise paragraph (g) to read as follows:

§ 250.900 General requirements.

* * * * *

(g) In addition to the requirements of this subpart, platform design, fabrication, and installation shall conform to API RP 2A–WSD ''Recommended Practice For Planning, Designing, And Constructing Fixed Offshore Platforms—Working Stress Design,'' (incorporated by reference, see § 250.198), or American Concrete Institute (ACI) 357R, ''Guide for the Design and Construction of Fixed Offshore Concrete Structures,'' (incorporated by reference, see § 250.198), as appropriate. Alternative codes or rules may be utilized with approval of the Regional Supervisor. The requirements contained in these documents (API RP 2A–WSD and ACI 327R) are incorporated by reference in this part, see § 250.198.

■ 4. In § 250.912(a), revise the first sentence to read as follows:

§ 250.912 Periodic inspection and maintenance.

(a) All platforms installed in the OVS shall be inspected periodically in accordance with the provisions of section 14, Surveys of API RP 2A–WSD (incorporated by reference, see § 250.198). * * *

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[FR Doc. 03–9669 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–03–019]

RIN 1625–AA00

Safety Zone; Wiscasset, ME, Maine Yankee Reactor Pressure Vessel Removal

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary safety zones in the waters of the Back River, Montsweag Bay, between Bailey Point and Foxbird Island in Wiscasset, Maine, and around the transport barge during its transit to sea. These safety zones are needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with the handling, loading, and transportation of a major component of the Decommissioned Maine Yankee Nuclear Plant that is classified as Class 7 Hazardous Waste. Entry into these safety zones will be prohibited unless authorized by the Captain of the Port, Portland, Maine.

DATES: This rule is effective from 12 a.m. e.d.t. on April 15, 2003, until 12 a.m. e.d.t. on June 30, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–03–019 and are available for inspection or copying at Marine Safety Office

Portland, 27 Pearl Street, Portland, ME 04101 between the hours of 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant R. F. Pigeon, Port Operations Department, Marine Safety Office Portland at (207) 780–3251.

SUPPLEMENTARY INFORMATION:

Request for Comments

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Due to unpredictable water level changes in the Savannah River at the destination port and the effect of those changes on the transport's barge ability to transit in the Savannah River, the transport barge is now scheduled to arrive much earlier than the Coast Guard initially anticipated. Given these recently changed navigational conditions, the Coast Guard was unable to publish a NPRM in sufficient time before this rulemaking takes effect.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. As previously stated, recent and unpredictable changes in the water levels in the Savannah River would effect the safe transit of the transport barge from the Maine Yankee Barge Slip in Wiscasset, Maine to its final destination at the Savannah River Site Boat Dock (mile 158). Due to these unpredictable changes in the river's navigability, and the barge's arrival occurring earlier than previously scheduled, the Coast Guard finds that good cause exists for making this temporary rule effective in less than 30 days after publication in the **Federal Register**.

Background and Purpose

Beginning on approximately May 1, 2003, Duratek/Chem Nuclear, Inc., the decommissioning contractor, will load and transport a reactor pressure vessel from the Decommissioned Maine Yankee Nuclear Plant onto a transport barge at the Maine Yankee barge slip in Wiscasset, Maine for shipment to the Savannah River Site Boat Dock (mile 158). The transport barge is scheduled to arrive at the Maine Yankee barge slip on approximately April 15, 2003. Once loaded, the barge will transit the Back River, Sheepscot River and Sheepscot Bay bound for sea. The departure date for the barge is expected to be approximately May 8, 2003.

These safety zones will be needed to ensure the safety of persons, facilities, vessels and others in the maritime community, including workers involved with the project, from the hazards associated with the handling, loading and transportation of a major component containing Class 7 hazardous waste from a decommissioned nuclear power plant onto a barge in this small cove. The Back River and Sheepscot River are narrow waterways and the tug and barge will require space to be able to maneuver safely. This moving safety zone will allow the barge adequate room to maneuver and freely transit outbound to sea with this hazardous cargo.

Dates for this project are subject to change based on conditions of navigation in the Savannah River necessary to transport the barge to its final destination.

Discussion of Rule

This rule establishes a temporary safety zone in the waters of the Back River, Montsweag Bay, within 250 yards of the transport barge moored at the Maine Yankee Barge Slip located in the cove between Bailey Point and Foxbird Island effective on the date of arrival of the barge and expiring upon the barge's departure. The tentative dates for arrival and departure are April 15, 2003, and May 8, 2003, respectively. This rule has an effective date until June 30, 2003, due to the possibility of additional changes in departure schedules.

This rule also establishes a safety zone 250 yards ahead and astern, and 100 yards aside (or to the edge of the navigable channel, whichever is less), of the transport barge during its transit outbound to sea. Entry into these safety zones will be prohibited unless authorized by the Captain of the Port, Portland, Maine.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full regulatory evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary. The effect of this rule will not be significant for several reasons: there will be minimal impact on the navigational channel, there is ample room to navigate around the zone, delays, if any, will be minimal, and broadcast notifications will be made to the maritime community advising them of the boundaries of the zone. During the outbound transit vessels will be able to arrange safe passage with the tug and transport barge via VHF radio.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit through the safety zones between the dates of April 15, 2003, and June 30, 2003. However, these safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons. There is ample room to navigate safely around the zones, delays, if any, would be minimal, and broadcast notifications will be made to the maritime community advising them of the boundaries of the zones.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this proposed rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local or tribal government, in the aggregate, or by the private sector of

$100,000,000 or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, 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.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that Order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of the categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.

■ 2. Add temporary § 165.T01–019 to read as follows:

§ 165.T01–019 Safety Zone; Wiscassett, ME, Maine Yankee Reactor Pressure Vessel Removal.

(a) *Locations.* The following areas are designated as safety zones:

(1) All waters of the Back River, Montsweag Bay, within 250 yards of the transport barge moored at the Maine Yankee Barge Slip located in the cove between Bailey Point and Foxbird Island.

(2) All waters 250 yards ahead and astern, and 100 yards aside (or to the edge of the navigable channel, whichever is less) of the transport barge during its transit from the Maine Yankee Barge Slip to sea. Specifically, this zone will be enforced until the barge passes abeam of Hendricks Head Light on Southport Island.

(b) *Effective date.* This section is effective from 12 a.m. EDT on April 15, 2003 until 12 a.m. EDT on June 30, 2003.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited unless authorized by the Captain of the Port (COTP), Portland, Maine or his designated representative.

(2) All persons and vessels shall comply with the instructions of the COTP, or the designated on-scene U.S. Coast Guard representative. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, state, and federal law enforcement vessels.

Dated: April 7, 2003.

Wyman W. Briggs,

Commander, U. S. Coast Guard, Captain of the Port, Portland, Maine, Acting.

[FR Doc. 03–9722 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 203

RIN 0710–AA47

Natural Disaster Procedures: Preparedness, Response, and Recovery Activities of the Corps of Engineers

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: The Corps is promulgating a final rule to revise 33 CFR part 203. Today's final rule completes the rulemaking process initiated on 26 February 2002 with publication of the proposed rule to revise 33 CFR part 203, which implements Public Law 84–99. The revisions are necessary to reflect current policy, add features required by the Water Resources Development Act of 1996 (WRDA 96) and streamline certain procedures concerning Corps authority addressing disaster preparedness, response, and recovery activities. WRDA 96 additions include the option to provide nonstructural alternatives in lieu of structural repairs to levees damaged by flood events, and the provision of a levee owner's manual. Other significant changes include expansion of investigation ability for potential Advance Measures work, and a streamlined approach for requests for assistance from Native American tribes and Alaska Native Corporations.

DATES: This rule is effective May 21, 2003.

FOR FURTHER ASSISTANCE CONTACT: Mr. Jeffrey D. Jensen, Headquarters, U.S. Army Corps of Engineers, Civil Emergency Management Branch, CECW–OE, at (202) 761–4561.

SUPPLEMENTARY INFORMATION:

I. Background. Pursuant to its authorities in 33 U.S.C. 701n (commonly and hereinafter referred to

as Public Law 84–99), the Corps is revising 33 CFR part 203, which implements Public Law 84–99. A notice of proposed rulemaking was published in the **Federal Register** on February 26, 2002 (67 FR 8748). Public Law 84–99 authorizes the Corps to undertake preparedness, response, and recovery activities for natural disasters. The Water Resources Development Act of 1996 amended Public Law 84–99 to add the authority to provide, at the option of the non-Federal sponsor, nonstructural alternatives in lieu of structural repairs to levees damaged by flood events, and also added the requirement to provide a levee owner's manual. Other significant changes include expansion of investigation ability for potential Advance Measures activities, and a streamlined approach for requests for assistance from federally recognized Native American Tribes and Alaska Native Corporations. In addition, these changes modify and streamline policy involving the Corps policy concerning assistance for ice jams, and the Corps policy requiring reimbursement in kind or in cash for certain loaned supplies and materials. Subpart D clarifies the definition and inspection of ''Active'' flood control works (*i.e.*, those flood control works eligible for consideration to receive Corps assistance when damaged in a flood, hurricane, or coastal storm), provides clarification concerning Corps inspections of non-Federal flood control works, and adds a new section that addresses inspections and rehabilitation of Federal flood control works that merely incorporates existing Corps policy. A new section (§ 203.49) incorporates existing Corps policy on the use of Public Law 84–99 funds for rehabilitation of Hurricane/Shore Protection Projects, and, when undertaking such a rehabilitation effort, requires incorporation of the existing Project Cooperation Agreement to have the project sponsor cost share the renourishment/repair effort. In addition, Corps policy is revised to specify that, during droughts, water is provided for human consumption only, not for livestock. The revised rule will go into effect 30 days after publication of the final rule in the **Federal Register**, except that all requests for assistance received by the Corps, for emergencies declared by the appropriate District Engineer prior to the effective date of the final rule, will be ''grandfathered'' under the previous rule for any assistance provided if this is more advantageous to the non-Federal entity involved and in accordance with prior Corps policy.

Electronic Access and Filing Addresses. You may submit comments by E-mail to *Jeffrey.D.Jensen@usace.army.mil.* Comments should be in one of the following formats: Word, WordPerfect, or ASCII. The subject line for submission of comments should begin with ''33CFR203 Final Rule Comments from (insert name of agency, organization, or individual).''

Procedural Requirements

a. *Review under the National Environmental Policy Act.* This revision is not a major Federal action. There are no significant changes to any aspects of this regulation that may impact on the human environment. When a specific action (*e.g.*, a proposal to rehabilitate a damaged levee) occurs, appropriate environmental documentation, to include an Environmental Assessment/Environmental Impact Statement when required, is prepared by the Corps.

b. *Unfunded Mandates Act.* This proposed 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. The Corps has also found, under section 203 of the Act, that small governments will not be significantly and uniquely affected by this rulemaking.

Comments

Interested parties have been afforded the opportunity to participate in the making of this rule. Due consideration has been given to the comments received.

Cost Sharing

Over ninety percent of the commenters addressed the proposal to change the cost share provisions for rehabilitation of damaged flood control works, both Federal and non-Federal. We agree with the commenters. The Corps will maintain the status quo for cost sharing rehabilitation of damaged flood control works. Therefore, rehabilitation of Federal flood control works will remain at 100 percent Federal cost, and rehabilitation of non-Federal flood control works will remain at 80 percent Federal cost and 20% local cost.

Non-Structural Alternative Projects

WRDA 96 added the statutory authority to undertake Non-Structural Alternative Projects in lieu of structural levee rehabilitation efforts. Several commenters complimented the Corps for its implementation policy. Several commenters opposed the implementation of any policy for non-structural alternative projects.

Because of the statutory language amending Public Law 84–99, including the provision that any nonstructural alternative project would be undertaken solely at the request of the affected project sponsor, we disagree that this policy should not be implemented. Every project sponsor maintains the ability to request or decide against a nonstructural alternative Project, which effectively gives the commenters against the policy the same capabilities as they would have if the policy were not implemented.

Scope of Levee Rehabilitation Projects

One commenter suggested that Section 203.15(g) be changed to add language saying that projects should be rehabilitated to their original design level of protection rather than the level of protection that existed prior to the storm or flood causing the damage. The commenter states that such work should not be considered a ''betterment'' for which the sponsor is responsible.

We do not agree with the commenter on this point. The affected section is almost verbatim taken from statutory language. The effort necessary to preserve the design level of protection is not a betterment; it is maintenance, regardless of when it is undertaken. Congress and the Corps have long recognized that sponsors are responsible for operations and maintenance of flood control projects, and long term settlement/erosion that may affect the current day level of protection has historically been considered sponsor maintenance.

Work in Kind

Several commenters submitted comments about credit for work in kind being undertaken by the local sponsor. The actual commenters' references were to several different sections. Specifically, the commenters wanted the Corps to be more liberal in allowing local sponsors to pay the local cost share using work in kind, to include work traditionally done by the Corps.

We disagree with this idea. Because of the emergency nature of most work undertaken under Public Law 84–99, the generally lower cost of the emergency work (compared to that work done by the Corps for specifically authorized projects under other authorities), and the principle that work by the Corps is intended to supplement State and local efforts, no change in the final rule was made. There was no work in kind allowance change deemed to be, in the net, more cost effective for the

Corps and less expensive for the local sponsors.

Flood Fighting on Agricultural Levees

Several commenters stated that the Corps should undertake flood fights on levees that protect strictly agricultural lands. They stated that there were costs (beyond levee rehabilitation costs) associated with overtopped or breached agricultural levees.

The Corps disagrees with the commenter's intent while recognizing their concerns. It is acknowledged that flood control systems in place in the United States are not an absolutely ideal system. When a flood reaches a magnitude to start breaching or overtopping agricultural levees, then there are generally residential, commercial, and industrial areas that are also threatened, with a consequent higher threat for loss of human life as well as potentially higher costs for property damages. Historically, the total cost (borne not only by the Federal government but by State and local governments, insurance companies, and property owners) of a breached agricultural levee is less than that of a breached nonagricultural levee. In certain conditions the flood waters will not remain contained in the floodway and will inundate some protected areas. The Corps policy thus reflects an optimum approach to minimizing overall costs and preventing greater amounts of loss of life.

Rehabilitation for Damages Not Caused by a Flood Event

One commenter took issue with the statement that only damages related to floods should be addressed by rehabilitation work. The commenter wanted damages caused by use of navigation channels to be covered by Public Law 84–99.

The Corps disagrees with the commenter. Repair of damages not related to flood and coastal storm events is beyond the scope of assistance authorized by Public Law 84–99. Navigation projects operated by the Corps are funded by separate appropriations. Any damages to a flood control project related to operation of a navigation project are appropriately addressed with navigation funds.

Use of Benefit to Cost Ratios

One commenter stated that any Active project damaged by a flood or coastal storm should not be subject to any benefit to cost ratio.

The Corps disagrees with the comment. Statutorily, Public Law 84–99 rehabilitation projects must undergo a benefit to cost assessment. Following Congressional intent contained in other Corps authorities for a benefit to cost ratio greater than 1.0 for new projects to be authorized, it is only logical to extend this approach to Public Law 84–99 projects so that proper stewardship of funds is exercised.

List of Subjects in 33 CFR Part 203

Disaster assistance, Flood control, Technical assistance, Water resources.

Dated: March 31, 2003.

Lawrence A. Lang,

Acting Chief, Operations Division, Directorate of Civil Works.

Accordingly, 33 CFR Part 203 is revised as follows:

PART 203—EMERGENCY EMPLOYMENT OF ARMY AND OTHER RESOURCES, NATURAL DISASTER PROCEDURES

Subpart A—Introduction

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203.11 Purpose.
203.12 Authority.
203.13 Available assistance.
203.14 Responsibilities of non-Federal interests.
203.15 Definitions.
203.16 Federally recognized Indian Tribes and the Alaska Native Corporations.

Subpart B—Disaster Preparedness

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203.31 Authority.
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203.41 General.
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203.45 Rehabilitation of Federal Flood Control Works.
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203.49 Rehabilitation of Hurricane and Shore Protection Projects.
203.50 Nonstructural alternatives to rehabilitation of Flood Control Works.
203.51 Levee owner's manual.
203.52 (Reserved).

Subpart E—Emergency Water Supplies: Contaminated Water Sources and Drought Assistance

203.61 Emergency water supplies due to contaminated water sources.
203.62 Drought assistance.

Subpart F—Advance Measures

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Subpart G—Local Interests/Cooperation Agreements

203.81 General.
203.82 Requirements of local cooperation.
203.83 Additional requirements.
203.84 Forms of local participation—cost share.
203.85 Rehabilitation of Federal Flood Control Projects.
203.86 Transfer of completed work to local interests.

Authority: 33 U.S.C. 701n.

Subpart A—Introduction

§ 203.11 Purpose.

This part prescribes administrative policies, guidance, and operating procedures for natural disaster preparedness, response, and recovery activities of the United States Army Corps of Engineers.

§ 203.12 Authority.

Section 5 of the Flood Control Act of 1941, as amended, (33 U.S.C. 701n) (69 Stat. 186), commonly and hereinafter referred to as Public Law 84–99, authorizes an emergency fund to be expended at the discretion of the Chief of Engineers for: preparation for natural disasters; flood fighting and rescue operations; repair or restoration of flood control works threatened, damaged, or destroyed by flood, or nonstructural alternatives thereto; emergency protection of federally authorized hurricane or shore protection projects which are threatened, when such protection is warranted to protect against imminent and substantial loss to life and property; and repair and restoration of federally authorized hurricane or shore protection projects damaged or destroyed by wind, wave, or water of other than ordinary nature. The law includes provision of emergency supplies of clean water when a contaminated source threatens the public health and welfare of a locality, and activities necessary to protect life and improved property from a threat resulting from a major flood or coastal storm. This law authorizes the Secretary of the Army (Secretary) to construct wells and to transport water within areas determined by the Secretary to be drought-distressed. The Secretary of the Army has delegated the authority vested in the Secretary under Public Law 84–99 through the Assistant Secretary of the Army (Civil Works) to the Chief of Engineers, subject to such further direction as the Secretary may provide.

§ 203.13 Available assistance.

Corps assistance provided under authority of Public Law 84–99 is intended to be supplemental to State and local efforts. The principal assistance programs and activities of the Corps are described in this section.

(a) *Disaster preparedness.* Technical assistance for many types of disasters is available to State and local interests. Primary Corps efforts are focused on technical assistance for, and inspections of, flood control works, and related flood fight preparedness and training activities. Technical assistance for specialized studies, project development, and related activities, and requirements for long term assistance, are normally beyond the scope of disaster preparedness assistance, and are appropriately addressed by other Corps authorities and programs. Subpart B addresses disaster preparedness responsibilities and activities.

(b) *Emergency operations.* Emergency operations, consisting of Flood Response (flood fight and rescue operations) and Post Flood Response assistance, may be provided to supplement State and local emergency operations efforts. Subpart C of this part addresses emergency operations assistance.

(c) *Rehabilitation.* The Corps may rehabilitate flood control works damaged or destroyed by floods and coastal storms. The Corps Rehabilitation and Inspection Program (RIP) incorporates both disaster preparedness activities and Rehabilitation Assistance. The RIP consists of a process to inspect flood control works; a status determination, *i.e.*, an inspection-based determination of qualification for future potential Rehabilitation Assistance; and the provision of Rehabilitation Assistance to those projects with Active status that are damaged in a flood or coastal storm event. Subpart D addresses Rehabilitation Assistance and the RIP.

(d) *Emergency water supplies due to contaminated water source.* The Corps may provide emergency supplies of clean water to any locality confronted with a source of contaminated water causing, or likely to cause, a substantial threat to the public health and welfare of the inhabitants of the locality. Subpart E addresses emergency water supply assistance.

(e) *Drought assistance.* Corps assistance may be provided to drought-distressed areas (as declared by the Secretary of the Army or his delegated nominee) to construct wells and to transport water for human consumption. Subpart E addresses drought assistance.

(f) *Advance Measures.* Advance Measures assistance may be provided to protect against imminent threats of predicted, but unusual, floods. Advance Measures projects must be justified from an engineering and economic standpoint, and must be capable of completion in a timely manner. Advance Measures assistance may be provided only to protect against loss of life and/or significant damages to improved property due to flooding. Subpart F of this part addresses Advance Measures assistance.

§ 203.14 Responsibilities of non-Federal interests.

Non-Federal interests, which include State, county and local governments; federally recognized Indian Tribes; and Alaska Native Corporations, are required to make full use of their own resources before Federal assistance can be furnished. The National Guard, as part of the State's resources when it is under State control, must be fully utilized as part of the non-Federal response. Non-Federal responsibilities include the following:

(a) *Disaster preparedness.* Disaster preparedness is a basic tenet of State and local responsibility. Disaster preparedness responsibilities of non-Federal interests include:

(1) Operation and maintenance of flood control works;

(2) Procurement and stockpiling of sandbags, pumps, and/or other materials or equipment that might be needed during flood situations;

(3) Training personnel to operate, maintain, and patrol projects during crisis situations, and preparation of plans to address emergency situations;

(4) Taking those actions necessary for flood control works to gain and maintain an Active status in the Corps Rehabilitation and Inspection Program (RIP), as detailed in subpart D of this part; and,

(5) Responsible regulation, management, and use of floodplain areas.

(b) *Emergency operations.* During emergency operations, non-Federal interests must commit available resources, to include work force, supplies, equipment, and funds. Requests for Corps emergency operations assistance will be in writing from the appropriate State, tribal, or local official. For flood fight direct assistance and Post Flood Response assistance, non-Federal interests must furnish formal written assurances of local cooperation by entering into Cooperation Agreements (CA's), as detailed in subpart G of this regulation. (For Corps work authorized under Public Law 84–99, the term ''Cooperation Agreement'' is used to differentiate this agreement from a Project Cooperation Agreement (PCA) that addresses the original construction of a project.) Following Flood Response or Post Flood Response assistance, it is a non-Federal responsibility to remove expedient flood control structures and similar works installed by the Corps under Public Law 84–99.

(c) *Rehabilitation of non-Federal flood control projects.* Prior to Corps rehabilitation of non-Federal flood control projects, non-Federal interests must furnish formal written assurances of local cooperation by entering into a CA, as detailed in subpart G of this part. Requirements of local participation include such items as provision of lands, easements, rights-of-way, relocations, and suitable borrow and dredged or excavated material disposal areas (LERRD's), applicable cost-sharing, and costs attributable to deficient and/or deferred maintenance.

(d) *Rehabilitation of Federal flood control projects.* Sponsors of Federal flood control projects are usually not required to furnish written assurances of local cooperation, if the PCA for the original construction of the project is sufficient. (**Note:** The PCA may also be referred to as a local cooperation agreement (LCA), cooperation and participation agreement (C&P), or similar terms.) In lieu of a new PCA, the Corps will notify the sponsor of the sponsor's standing requirements, including such items as LERRD's, costs attributable to deficient or deferred maintenance, removal of temporary works, relocations, and any cost-sharing requirements contained in subpart G of § 203.82. Modifications to the existing Operation and Maintenance Manual may be required based on the Rehabilitation Assistance required.

(e) *Emergency water supplies due to contaminated water source.* Except for federally recognized Indian Tribes or Alaska Native Corporations, Non-Federal interests must first seek emergency water assistance through the Governor of the affected State. If the State is unable to provide the needed assistance, then the Governor or his or her authorized representative must request Corps assistance in writing. Similarly, requests for Corps assistance for Indian Tribes or Alaska Native Corporations must be submitted in writing. A CA (see subpart G of this part) is required prior to assistance being rendered. Requests for assistance must include information concerning the criteria prescribed by subpart E of this part.

(f) *Drought assistance.* Except for federally recognized Indian Tribes or Alaska Native Corporations, non-Federal interests must first seek emergency drinking water assistance through the Governor of the affected State. Requests for Corps assistance will be in writing from the Governor or his or her authorized representative. Similarly, requests for Corps assistance for Indian Tribes or Alaska Native Corporations must be submitted in writing. A CA (see subpart G of this part) is required prior to assistance being rendered. Assistance can be provided to those drought-distressed areas (as declared by the Secretary of the Army) to construct wells and to transport water for human consumption. Requests for assistance must include information concerning the criteria prescribed by subpart E of this part.

(g) *Advance Measures.* Advance Measures assistance should complement the maximum non-Federal capability. Requests for assistance must be made by the Governor of the affected State, except requests for assistance on tribal lands held in trust by the United States, or on lands of the Alaska Natives, may be submitted directly by the affected Federally recognized Indian Tribe or Alaska Native Corporation, or through the regional representative of the Bureau of Indian Affairs, or through the Governor of the State in which the lands are located. A CA (see subpart G of this part) is required prior to assistance being rendered. Non-Federal participation may include either financial contribution or commitment of non-Federal physical resources, or both.

§ 203.15 Definitions.

The following definitions are applicable throughout this part:

Federal Project. A project constructed by the Corps, and subsequently turned over to a local sponsor for operations and maintenance responsibility. This definition also includes any project specifically designated as a Federal project by an Act of Congress.

Flood Control Project: A project designed and constructed to have appreciable and dependable effects in preventing damage from irregular and unusual rises in water level. For a multipurpose project, only those components that are necessary for the flood control function are considered eligible for Rehabilitation Assistance.

Governor. All references in part 203 to the Governor of a State also refer to: the Governors of United States commonwealths, territories, and possessions; and the Mayor of Washington, D.C.

Hurricane/Shore Protection Project (HSPP). A flood control project designed and constructed to have appreciable and predictable effects in preventing damage to developed areas from the impacts of hurricanes, tsunamis, and coastal storms. These effects are primarily to protect against wave action, storm surge, wind, and the complicating factors of extraordinary high tides. HSPP's include projects known as shore protection projects, shore protection structures, periodic nourishment projects, shore enhancement projects, and similar terms. Components of an HSPP may include both hard (permanent construction) and soft (sacrificial, *i.e.*, sand) features.

Non-Federal Project. A project constructed with non-Federal funds, or a project constructed by tribal, State, local, or private interests, or a component of such a project. A project constructed under Federal emergency disaster authorities, such as Public Law 84–99 or the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended (42 U.S.C. 5121, *et seq.*) (hereinafter referred to as the Stafford Act), is a non-Federal project unless it repairs or replaces an existing Federal project. Works Progress Administration (WPA) projects, and projects funded completely or partially by other (non-Corps) Federal agencies, are considered non-Federal projects for the application of Public Law 84–99 authority.

Non-Federal sponsor. A non-Federal sponsor is a public entity that is a legally constituted public body with full authority and capability to perform the terms of its agreement as the non-Federal partner of the Corps for a project, and able to pay damages, if necessary, in the event of its failure to perform. A non-Federal sponsor may be a State, County, City, Town, Federally recognized Indian Tribe or tribal organization, Alaska Native Corporation, or any political subpart of a State or group of states that has the legal and financial authority and capability to provide the necessary cash contributions and LERRD's necessary for the project.

Repair and rehabilitation. The term ''repair and rehabilitation'' means the repair or rebuilding of a flood control structure, after the structure has been damaged by a flood, hurricane, or coastal storm, to the level of protection provided by the structure prior to the flood, hurricane, or coastal storm. ''Repair and rehabilitation'' does not include improvements (betterments) to the structure, nor does ''repair and rehabilitation'' include any repair or rebuilding of a flood control structure that, in the normal course of usage, has become structurally unsound and is no longer fit to provide the level of protection for which it was designed.

§ 203.16 Federally recognized Indian Tribes and the Alaska Native Corporations.

Requests for Public Law 84–99 assistance on tribal lands held in trust by the United States, or on lands of the Alaska Natives, may be submitted to the Corps directly by the affected federally recognized Indian Tribe or Alaska Native Corporation, or through the appropriate regional representative of the Bureau of Indian Affairs, or through the Governor of the State.

Subpart B—Disaster Preparedness

§ 203.21 Disaster preparedness responsibilities of non-Federal interests.

Disaster preparedness is a basic tenet of State and local responsibility. Assistance provided under authority of Public Law 84–99 is intended to be supplemental to the maximum efforts of State and local interests. Assistance under Public Law 84–99 will not be provided when non-Federal interests have made insufficient efforts to address the situation for which assistance is requested. Assistance under Public Law 84–99 will not be provided when a request for such assistance is based entirely on a lack of fiscal resources with which to address the situation. Non-Federal interests' responsibilities are addressed in detail as follows:

(a) *Operation and maintenance of flood control works.* Flood control works must be operated and maintained by non-Federal interests. Maintenance includes both short-term activities (normally done on an annual cycle, or more frequently) such as vegetation control and control of burrowing animals, and longer term activities such as repair or replacement of structural components (*e.g.*, culverts) of the project.

(b) *Procurement/stockpiling.* Procurement and stockpiling of sandbags, pumps, and/or other materials or equipment that might be needed during flood situations is a non-Federal responsibility. The Corps is normally a last resort option for obtaining such materials. Local interests should request such materials from State assets prior to seeking Corps assistance. Local interests are responsible for reimbursing (either in kind or in cash) the Corps for expendable flood fight supplies and materials, and returning items such as pumps. When a flood is of sufficient magnitude to receive a Stafford Act emergency or disaster declaration, then the District Engineer may waive reimbursement of expendable supplies.

(c) *Training and plans.* Training personnel to operate, maintain, and patrol flood control projects during crisis situations is a non-Federal responsibility. Specific plans should be developed and in place to address known problem areas. For instance, the non-Federal sponsor of a levee reach prone to boils should have personnel specifically trained in flood fighting boils. In addition, contingency plans must be made when needed to address short term situations. For instance, if a culvert through a levee is being replaced, then the contingency plan should address all actions needed should a flood event occur during the construction period when levee integrity is lacking.

(d) *Corps Rehabilitation and Inspection Program for Flood Control Works.* To be eligible for Rehabilitation Assistance under Public Law 84–99, it is a non-Federal responsibility to take those actions necessary for flood control works to gain and maintain an Active status in the Corps Rehabilitation and Inspection Program (RIP), as detailed in subpart D of this part.

Subpart C—Emergency Operations

§ 203.31 Authority.

Emergency operations under Public Law 84–99 apply to Flood Response and Post Flood Response activities. Flood Response activities include flood fighting, rescue operations, and protection of Corps-constructed hurricane/shore protection projects. Post Flood Response activities include certain limited activities intended to prevent imminent loss of life or significant public property, or to protect against significant threats to public health and welfare, and are intended to bridge the time frame between the occurrence of a disaster and the provision of disaster relief efforts under authority of The Stafford Act.

(a) *Flood Response.* Flood Response measures are applicable to any flood control work where assistance is supplemental to tribal, State, and local efforts, except that Corps assistance is not appropriate to protect flood control works constructed, previously repaired, and/or maintained by other Federal agencies, where such agencies have emergency flood fighting authority. Further, Flood Response measures (except technical assistance) are not appropriate for flood control works protecting strictly agricultural lands. Corps assistance in support of other Federal agencies, or State and local interests, may include the following: technical advice and assistance; lending of flood fight supplies, *e.g.*, sandbags, lumber, polyethylene sheeting, or stone; lending of Corps-owned equipment; hiring of equipment and operators for flood operations; emergency contracting; and similar measures.

(b) *Post Flood Response.* The Corps may furnish Post Flood Response assistance for a period not to exceed 10 days (the statutory limitation) from the date of the Governor's request to the Federal Emergency Management Agency for an emergency or disaster declaration under authority of the Stafford Act. Requests for Post Flood Response assistance must be made by the Governor of the affected State, except that requests for assistance on lands held in trust by the United States, or on lands of the Alaska Natives, may be submitted directly by the affected federally recognized Indian Tribe or Alaska Native Corporation, or through the appropriate regional representative of the Bureau of Indian Affairs, or through the Governor of the State in which the lands are located. Assistance from the Corps may include the following: provision of technical advice and assistance; cleaning of drainage channels, bridge openings, or structures blocked by debris deposited during a flood event, where the immediate threat of flooding of or damage to public facilities has not abated; removal of debris blockages of critical water supply intakes, sewer outfalls, etc.; clearance of the minimum amounts of debris necessary to reopen critical transportation routes or public services/facilities; other assistance required to prevent imminent loss of life or significant damage to public property, or to protect against significant threats to public health and welfare. Post Flood Response assistance is supplemental to the maximum efforts of non-Federal interests.

§ 203.32 Policy.

Prior to, during, or immediately following flood or coastal storm activity, emergency operations may be undertaken to supplement State and local activities. Corps assistance is limited to the preservation of life and property, *i.e.*, residential/commercial/industrial developments, and public facilities/services. Direct assistance to individual homeowners, individual property owners, or businesses is not permitted. Assistance will be temporary to meet the immediate threat, and is not intended to provide permanent solutions. All Corps activities will be coordinated with the State Emergency Management Agency or equivalent. Reimbursement of State or local emergency costs is not authorized. The local assurances required for the provision of Corps assistance apply only to the work performed under Public Law 84–99, and will not prevent State or local governments from receiving other Federal assistance for which they are eligible.

(a) *Flood Response.* Requests for Corps assistance will be in writing from the appropriate requesting official, or his or her authorized representative. When time does not permit a written request, a verbal request from a responsible tribal, State, or local official will be accepted, followed by a written confirmation.

(1) Corps assistance may include operational control of flood response activities, if requested by the responsible tribal, State, or local official. However, legal responsibility always remains with the tribal, State, and local officials.

(2) Corps assistance will be terminated when the flood waters recede below bankfull, absent a short term threat (*e.g.*, a significant storm front expected to arrive within a day or two) likely to cause additional flooding.

(3) Removal of ice jams is a local responsibility. Corps technical advice and assistance, as well as assistance with flood fight operations, can be provided to supplement State and local efforts. The Corps will not perform ice jam blasting operations for local interests.

(b) *Post Flood Response.* A written request from the Governor is required to receive Corps assistance. Corps assistance will be limited to major floods or coastal storm disasters resulting in life threatening situations. The Governor's request will include verification that the Federal Emergency Management Agency (FEMA) has been requested to make an emergency or disaster declaration; a statement that the assistance required is beyond the State's capability; specific damage locations; and the extent of Corps assistance required to supplement State and local efforts. Corps assistance is limited to 10 days following receipt of the Governor's written request, or on assumption of activities by State and local interests, whichever is earlier. After a Governor's request has triggered the 10-day period, subsequent request(s) for additional assistance resulting from the same flood or coastal storm event will not extend the 10-day period, or trigger a new 10-day period. The Corps will deny any Governor's request for Post Flood Response if it is received subsequent to a Stafford Act Presidential disaster declaration, or denial of such a declaration. Shoreline or beach erosion damage reduction/prevention actions under Post Flood Response will

normally not be undertaken unless there is an immediate threat to life or critical public facilities.

(c) *Loan or issue of supplies and equipment.* (1) Issuance of Government-owned equipment or materials to non-Federal interests is authorized only after local resources have been fully committed.

(2) Equipment that is lent will be returned to the Corps immediately after the flood operation ceases, in a fully maintained condition, or with funds to pay for such maintenance. The Corps may waive the non-Federal interest's responsibility to pay for or perform maintenance if a Stafford Act Presidential emergency or disaster declaration has already been made for the affected locality, and the waiver is considered feasible and reasonable.

(3) Expendable supplies that are lent, such as sandbags, will be replaced in kind, or paid for by local interests. The Corps may waive the local interest's replacement/payment if a Stafford Act Presidential disaster declaration has been made for the affected locality, and the waiver is considered feasible and reasonable. All unused expendable supplies will be returned to the Corps when the operation is terminated.

Subpart D—Rehabilitation Assistance for Flood Control Works Damaged by Flood or Coastal Storm: The Corps Rehabilitation and Inspection Program

§ 203.41 General.

(a) *Authority.* Public Law 84–99 authorizes repair and restoration of the following types of projects to ensure their continued function:

(1) Flood control projects.

(2) Federally authorized and constructed hurricane/shore protection projects.

(b) *Implementation of authority.* The Rehabilitation and Inspection Program (RIP) implements Public Law 84–99 authority to repair and rehabilitate flood control projects damaged by floods and coastal storm events. The RIP consists of a process to inspect flood control work; a status determination, *i.e.,* an inspection-based determination of qualification for future Rehabilitation Assistance; and the provision of Rehabilitation Assistance to those projects with Active status that are damaged in a flood or coastal storm event.

(c) *Active status.* In order for a flood control work to be eligible for Rehabilitation Assistance, it must be in an Active status at the time of damage from a flood or coastal storm event. To gain an Active status, a non-Federal flood control work must meet certain engineering, maintenance, and qualification criteria, as determined by the Corps during an Initial Eligibility Inspection (IEI). To retain an Active status, Federal and non-Federal flood control works must continue to meet inspection criteria set by the Corps, as determined by the Corps during a Continuing Eligibility Inspection (CEI). All flood control works not in an Active status are considered to be Inactive, regardless of whether or not they have previously received a Corps inspection, or Corps assistance.

(d) *Modification of flood control projects.* Modification of a flood control project to increase the level of protection, or to provide protection to a larger area, is beyond the scope of Public Law 84–99 assistance. Such modifications to Federal projects are normally accomplished under congressional authorization and appropriation, or under Continuing Authorities Programs of the Corps. Such modifications to non-Federal projects are normally accomplished by the non-Federal sponsor and local interests. Modifications necessary to preserve the structural integrity of an existing non-Federal flood control project may be funded by the RIP, but such work must meet the criteria established in § 203.47 to be eligible for funding under Public Law 84–99.

§ 203.42 Inspection of non-Federal Flood Control Works.

(a) *Required inspections.* The Corps will conduct inspections of non-Federal flood control works. These inspections are IEI's and CEI's. Conduct of IEI's and CEI's will be as provided for in § 203.48.

(1) Corps involvement with any non-Federal flood control work normally begins when the sponsor requests an IEI. The Corps will conduct an IEI to determine if the flood control work meets minimum engineering and maintenance standards and is capable of providing the intended degree of flood protection. An Acceptable or Minimally Acceptable rating (see § 203.48) on the IEI is required to allow the project to gain an Active status in the RIP.

(2) CEI's are conducted periodically to ensure that projects Active in the RIP continue to meet Corps standards, and to determine if the sponsor's maintenance program is adequate. A rating of Acceptable or Minimally Acceptable (see § 203.48) on a CEI is required in order to retain an Active status in the RIP.

(b) Advice and reporting. Information on the results of IEI and CEI inspections will be furnished in writing to non-Federal sponsors, and will be maintained in Corps district offices.

(1) Non-Federal sponsors will be informed that an IEI rating of Unacceptable will cause the flood control work to remain in an Inactive status, and ineligible for Rehabilitation Assistance.

(2) Non-Federal sponsors will be informed that a CEI rating of Unacceptable will cause the flood control work to be placed in an Inactive status, and ineligible for Rehabilitation Assistance.

(3) Non-Federal sponsors will be informed that maintenance deficiencies found during CEI's may negatively impact on eligibility of future Rehabilitation Assistance, and the degree of local cost-sharing participation in any proposed work. Follow-up inspections can be made by the Corps to monitor progress in correcting deficiencies when warranted.

§ 203.43 Inspection of Federal Flood Control Works.

(a) *Required inspections.* A completed Federal flood control project, or completed functional portions thereof, is granted Active status in the RIP upon transfer of the operation and maintenance of the project (or functional portion thereof) to the non-Federal sponsor. Federal flood control works will be periodically inspected in accordance with 33 CFR 208.10 and Engineer Regulation (ER) 1130–2–530, Flood Control Operations and Maintenance Policies. These periodic inspections of Federal flood control works are also, for simplicity, known as CEI's. If a Federal project is found to be inadequately maintained on a CEI, then it will be placed in an Inactive status in the RIP. [**Note:** This is a separate and distinct action from project deauthorization, which is not within the scope of PL 84–99 activities.] A Federal project will remain in an Inactive status until such time as an adequate maintenance program is restored, and the project is determined by the Corps to be adequately maintained.

(b) *Advice and reporting.* Information on the results of CEI inspections will be furnished in writing to non-Federal sponsors, and will be maintained in Corps district offices. Non-Federal sponsors will be informed that a CEI rating of Unacceptable will cause the flood control work to be placed in an Inactive status, and not eligible for Rehabilitation Assistance. Non-Federal sponsors will be informed that maintenance deficiencies found during CEI's may negatively impact on eligibility of future Rehabilitation Assistance, and the degree of local cost-sharing participation in any proposed work. Follow-up inspections can be

made by the Corps to monitor progress in correcting deficiencies when warranted.

§ 203.44 Rehabilitation of non-Federal Flood Control Works.

(a) *Scope of work.* The Corps will provide assistance in the rehabilitation of non-Federal projects only when repairs are clearly beyond the normal physical and financial capabilities of the project sponsor. The urgency of the work required will be considered in determining the sponsor's capability.

(b) *Eligibility for Rehabilitation Assistance.* A flood control project is eligible for Rehabilitation Assistance provided that the project is in an Active status at the time of the flood event, the damage was caused by the flood event, the work can be economically justified, and the work is not otherwise prohibited by this subpart D.

(c) *Work at non-Federal expense.* At the earliest opportunity prior to commencement of or during authorized rehabilitation work, the Corps will inform the project sponsor of any work that must be accomplished at non-Federal cost. This includes costs to correct maintenance deficiencies, and any modifications that are necessary to preserve the integrity of the project.

(d) *Nonconforming works.* Any non-Federal project constructed or modified without the appropriate local, State, tribal, and/or Federal permits, or waivers thereof, will not be rehabilitated under Public Law 84–99.

(e) *Cooperation Agreements.* A Cooperation Agreement is required in accordance with subpart G of this part.

§ 203.45 Rehabilitation of Federal Flood Control Works.

Rehabilitation of Federal flood control projects will be identical to rehabilitation of non-Federal projects (§ 203.44), except for those conditions contained in subpart G of this part concerning cooperation agreements, when the original PCA for the Federal project is sufficient. Additional requirements for Hurricane/Shore Protection Projects are covered in § 203.49.

§ 203.46 Restrictions.

(a) Restrictions to flood control works. Flood control works are designed and constructed to have appreciable and dependable protection in preventing damage from irregular and unusual rises in water levels. Structures built primarily for the purposes of channel alignment, navigation, recreation, fish and wildlife enhancement, land reclamation, habitat restoration, drainage, bank protection, or erosion protection are generally ineligible for Public Law 84–99 Rehabilitation Assistance.

(b) *Non-flood related rehabilitation.* Rehabilitation of flood control structures damaged by occurrences other than floods, hurricanes, or coastal storms will generally not be provided under Public Law 84–99.

(c) *Maintenance and deterioration deficiencies.* Rehabilitation under Public Law 84–99 will not be provided for either Federal or non-Federal flood control projects that, as a result of poor maintenance or deterioration, require substantial reconstruction. All deficient or deferred maintenance existing when flood damage occurs will be accomplished by, or at the expense of, the non-Federal sponsor, either prior to or concurrently with authorized rehabilitation work. When work accomplished by the Corps corrects deferred or deficient maintenance, the estimated deferred or deficient maintenance cost will not be included as contributed non-Federal funds, and will be in addition to cost-sharing requirements addressed in § 203.82. Failure of project sponsors to correct deficiencies noted during Continuing Eligibility Inspections may result in ineligibility to receive Rehabilitation Assistance under Public Law 84–99.

(d) *Economic justification.* No flood control work will be rehabilitated unless the work required satisfies Corps criteria for a favorable benefit-to-cost ratio, and the construction cost of the work required exceeds $15,000. Construction costs greater than $15,000 do not preclude the Corps from making a determination that the required work is a maintenance responsibility of the non-Federal sponsor, and not eligible for Corps Rehabilitation Assistance.

§ 203.47 Modifications to non-Federal Flood Control Works.

Modifications necessary to preserve the structural integrity of existing non-Federal projects may be constructed at additional Federal and non-Federal expense in conjunction with approved rehabilitation work. The additional Federal cost will be limited to not more than one-third of the estimated Federal construction cost of rehabilitation to preflood level of protection, or $100,000, whichever is less. The modification work must be economically justified. Non-Federal interests are required to contribute a minimum of 25% of the total construction costs of the modification, LERRD's, and any additional funds necessary to support the remaining cost of the modification beyond what the Corps can provide. Engineering and design costs will be at Corps cost.

(a) *Cash contributions.* Non-Federal contributions will be only in cash. In-kind services are not permitted for modification work.

(b) *Protection of additional areas.* Modifications designed to provide protection to additional area are not authorized.

§ 203.48 Inspection guidelines for non-Federal Flood Control Works.

(a) *Intent.* The intent of these guidelines is to facilitate inspections of the design, construction, and maintenance of non-Federal flood control works. The guidelines are not intended to establish design standards for non-Federal flood control works, but to provide uniform procedures within the Corps for conducting required inspections. The results of these inspections determine Active status in the RIP, and thus determine eligibility for Rehabilitation Assistance. The contents of this section are applicable to both IEI's and CEI's.

(b) *Level of detail.* Evaluations of non-Federal flood control works will be made through on site inspections and technical analyses by Corps technical personnel. The level of detail required in an inspection will be commensurate with the complexity of the inspected project, the potential for catastrophic failure to cause significant loss of life, the economic benefits of the area protected, and other special circumstances that may occur. Technical evaluation procedures are intended to establish the general capability of a non-Federal flood control work to provide reliable flood protection.

(c) *Purposes.* The IEI assesses the integrity and reliability of the flood control work. In addition, other essential information required to help determine the Federal interest in future repairs/rehabilitation to the flood control work will be obtained. The IEI will establish the estimated level of protection and structural reliability of the existing flood control work. Subsequent CEI's will seek to detect changed project conditions that may have an impact on the reliability of the flood protection provided by the flood control work, to include the level of maintenance being performed on the flood control work.

(d) *Inspection Components.* (1) *Hydrologic/hydraulic analyses.* The level of protection provided by a non-Federal flood control work will be evaluated and expressed in terms of exceedence frequency (**e.g.,** a 20% chance of a levee being overtopped in

any given year). These analyses also include an evaluation of existing or needed erosion control features for portions of a project that may be threatened by stream flows, overland flows, or wind generated waves.

(2) *Geotechnical analyses.* The Geotechnical evaluation will be based primarily on a detailed visual inspection. As a minimum, for levees, the IEI will identify critical sections where levee stability appears weakest and will document the location, reach, and cross-section at these points.

(3) *Maintenance.* Project maintenance analysis will evaluate the maintenance performance of the non-Federal sponsor, and deficiencies of the project. This evaluation should reflect the level of maintenance needed to assure the intended degree of flood protection, and assess the performance of recent maintenance on the project. The effects of structures on, over, or under the flood control work, such as buried fiber optic cables, gas pipelines, etc., will be evaluated for impact on the stability of the structure.

(4) *Other Structural Features.* Other features that may be present, such as pump stations, culverts, closure structures, etc., will be evaluated.

(e) *Ratings.* Inspected flood control works will receive a rating in accordance with the table below. The table below provides the general assessment parameters used in assigning a rating to the inspected flood control work.

Rating	Assessment
A—Acceptable	No immediate work required, other than routine maintenance. The flood control project will function as designed and intended, and necessary cyclic maintenance is being adequately performed.
M—Minimally Acceptable	One or more deficient conditions exist in the flood control project that need to be improved/corrected. However, the project will essentially function as designed and intended.
U—Unacceptable	One or more deficient conditions exist which can reasonably be foreseen to prevent the project from functioning as designed, intended, or required.

(f) *Sponsor reclama.* If the results of a Corps evaluation are not acceptable to the project sponsor, the sponsor may choose, at its own expense, to provide a detailed engineering study, preferably certified by a qualified Professional Engineer, as a reclama to attempt to change the Corps evaluation.

§ 203.49 Rehabilitation of Hurricane and Shore Protection Projects.

(a) *Authority.* The Chief of Engineers is authorized to rehabilitate any Federally authorized hurricane or shore protection structure damaged or destroyed by wind, wave, or water action of an other than ordinary nature when, in the discretion of the Chief of Engineers, such rehabilitation is warranted for the adequate functioning of the project.

(b) *Policies.* (1) Rehabilitation of HSPP's is limited to the repair/restoration of the HSPP to a pre-storm condition that allows for the adequate functioning of the project, provided that the damage was caused by an extraordinary storm.

(2) To be eligible for Rehabilitation Assistance, HSPP's must be:

(i) A completed element of a Federally authorized project; or,

(ii) A portion of a Federally authorized project constructed by non-Federal interests when approval of such construction was obtained from the Commander, Headquarters, U.S. Army Corps of Engineers (HQUSACE), or his designated representative; or,

(iii) A portion of a Federally authorized project constructed by non-Federal interests and designated by an Act of Congress as a Federal project; and

(3) Rehabilitation Assistance for sacrificial features will be limited to that necessary to reduce the immediate threat to life and property, or restoration to pre-storm conditions, whichever is less.

(4) To be eligible for rehabilitation, the sacrificial features of an HSPP must be substantially eroded by wind, wave, or water action of an other than ordinary nature. The determination of whether a storm qualifies as extraordinary will be made by the Director of Civil Works, and may be delegated to the Chief, Operations Division, Directorate of Civil Works.

(5) Rehabilitation will not be provided for uncompleted HSPP's. An HSPP (or separable portion thereof) is considered completed when transferred to the non-Federal sponsor for operation and maintenance.

(6) *Definition of extraordinary storm.* An extraordinary storm is a storm that, due to prolongation or severity, creates weather conditions that cause significant amounts of damage to a Hurricane/Shore Protection Project. ''Prolongation or severity'' means a Category 3 or higher hurricane as measured on the Saffir-Simpson scale, or a storm that has an exceedance frequency equal to or greater than the design storm of the project. ''Significant amounts of damage'' have occurred when:

(i) The cost of the construction effort to effect repair of the HSPP or separable element thereof (exclusive of dredge mobilization and demobilization costs) exceeds $1 million and is greater than two percent of the original construction cost (expressed in current day dollars) of the HSPP or separable element thereof; or,

(ii) The cost of the construction effort to effect repair of the HSPP or separable element thereof (exclusive of dredge mobilization and demobilization costs) exceeds $6 million; or,

(iii) More than one-third of the planned or historically placed sand for renourishment efforts for the HSPP (or separable element thereof) is lost.

(c) *Procedural requirements.* Rehabilitation of HSPP'S will be done in accordance with § 203.45, except as modified by this section.

(d) *Combined Rehabilitation and Periodic Nourishment.* In some cases, the non-Federal sponsor may wish to fully restore the sacrificial features of a project where only a partial restoration is justifiable as Rehabilitation Assistance. In these cases, a cost allocation between Rehabilitation Assistance and periodic nourishment under the terms of the project PCA will be determined by the Director of Civil Works.

§ 203.50 Nonstructural alternatives to rehabilitation of Flood Control Works.

(a) *Authority.* Under Public Law 84–99, the Chief of Engineers is authorized, when requested by the non-Federal sponsor, to implement nonstructural alternatives (NSA's) to the rehabilitation, repair, or restoration of flood control works damaged by floods or coastal storms.

(b) *Policy.* (1) The option of implementing an NSA project (NSAP) in lieu of a structural repair or restoration is available only to non-Federal sponsors of flood control works eligible for Rehabilitation Assistance in

accordance with this regulation, and only upon the request of such non-Federal sponsors.

(2) A sponsor is required for implementation of an NSAP. The NSAP sponsor must be either a non-Federal sponsor as defined in § 203.15, or another Federal agency. The NSAP sponsor must demonstrate that it has the legal authority and financial capability to provide for the required items of local cooperation.

(3) The Corps shall not be responsible for the operation, maintenance, or management of any NSAP implemented in accordance with this section.

(4) The Corps may, in its sole discretion, reject any request for an NSA that would:

(i) Lead to significantly increased flood protection expenses or flood fighting expenses for public agencies, flood control works sponsors, public utilities, or the Federal Government; or,

(ii) Threaten or have a significant adverse impact on the integrity, stability, or level of protection of adjacent or nearby flood control works; or,

(iii) Lead to increased risk of loss of life or property during flood events.

(5) The principal purposes of an NSAP are for:

(i) Floodplain restoration;

(ii) Provision or restoration of floodways; and,

Note to paragraphs (b)(5)(i) and (ii): Habitat restoration is recognized as being a significant benefit that can be achieved with an NSAP, and may be a significant component of an NSAP, but is not considered to be a principal purpose under PL 84–99 authority.

(iii) Reduction of future flood damages and associated flood control works repair costs.

(c) *Limitation on Corps Expenditures.* Exclusive of the costs of investigation, report preparation, engineering and design work, and related costs, Corps expenditures for implementation of an NSAP are limited to the lesser of the Federal share of rehabilitation construction costs of the project were the flood control work to be structurally rehabilitated in accordance with subpart D of this part, or the Federal share of computed benefits which would be derived from such structural rehabilitation. This limitation on Corps expenditures may be waived by the Director of Civil Works or the Chief, Operations Division, Directorate of Civil Works when compelling reasons exist.

(d) *Responsibilities of the NSAP non-Federal sponsor:*

(1) Operate and maintain the NSAP;

(2) Provide, or arrange for and obtain, all funding required to implement the NSAP in excess of the limitation established in paragraph (c) of this section.

(3) Accept the transfer of ownership of any lands or interests in lands acquired by the Corps and determined by the Corps to be necessary to implement the NSAP.

(e) *Responsibilities of other Federal agencies acting as NSAP sponsor.* The Corps may participate with one or more Federal agencies in NSAP's. If the Corps is the lead Federal agency, based on mutual agreement of the Federal agencies, then a non-Federal NSAP sponsor is required. (*See* paragraph (d) of this section.) If another Federal agency is the lead Federal agency, then Corps participation in the NSAP will be based on the content of this section, with appropriate allowances for effecting an NSAP in accordance with the authority and ultimate goal of the lead Federal agency. In such cases, a Memorandum of Agreement between the Corps and the lead Federal agency is required, in accordance with paragraph (1) of this section.

(f) *Responsibilities of the requesting flood control work project sponsor.* (1) The flood control work project sponsor must request the Corps undertake an NSA project in lieu of rehabilitation of the flood control work, in accordance with the sponsor's applicable laws, ordinances, rules, and regulations.

(2) If not also the NSAP sponsor, the flood control work project sponsor must:

(i) Divest itself of responsibility to operate and maintain the flood control work involved in the NSAP; and

(ii) Provide to the NSAP sponsor such lands or interests in lands as it may have which the Corps determines are necessary to implement the NSAP.

(g) *Allowable Public Law 84–99 expenses for NSAP's.* (1) Acquisition of land or interests in land.

(2) Removal of structures, including manufactured homes, for salvage and/or reuse purposes.

(3) Demolition and removal of structures, including utility connections and related items.

(4) Debris removal and debris reduction.

(5) Removal, protection, and/or relocation of highways, roads, utilities, cemeteries, and railroads.

(6) Construction to promote, enhance, control, or modify water flows into, out of, through, or around the nonstructural project area.

(7) Nonstructural habitat restoration, to include select planting of native and desirable plant species, native species nesting site enhancements, *etc.*

(8) Total or partial removal or razing of existing reaches of levee, to include removal of bank protection features and/or riprap.

(9) Protection/floodproofing of essential structures and facilities.

(10) Supervision, administrative, and contract administration costs of other expenses allowed in this subparagraph.

(h) *Time limitation.* Corps participation in development and implementation of an NSAP may cease, at the sole discretion of the Corps, one year after the date of approval of rehabilitation of the damaged flood control work or the date of receipt of the flood control work public sponsor's request for an NSAP, whichever is earlier, if insufficient progress is being made to develop and implement the NSAP for reasons beyond the control of the Corps. In such circumstances, the Corps may, at its sole discretion, determine that Rehabilitation Assistance for the damaged flood control project may also be denied.

(i) *Participation and involvement of other Federal, State, tribal, local, and private agencies.* Nothing in this section shall be construed to limit the participation of other Federal, State, tribal, local, and private agencies in the development, implementation, or future operations and maintenance of an NSAP under this section, subject to the limitations of such participating agency's authorities and regulations.

(j) *Future assistance.* After transfer of NSAP operation and maintenance responsibility to the NSAP sponsor or the lead Federal agency, flood-related assistance pursuant to Public Law 84–99 will not be provided anywhere within the formerly protected area of the flood control work, except for rescue operations provided in accordance with § 203.13(b). As an exception, on a case-by-case basis, certain structural flood control works (or elements thereof) repaired or set back as part of the implementation of an NSAP having a non-Federal sponsor may be considered for future flood-related assistance.

(k) *Environmental considerations.* NSAP's are subject to the same environmental requirements, restrictions, and limitations as are structural rehabilitation projects.

(l) *Requirements for Cooperation Agreement (CA)/Items of Local Cooperation.* (1) Requirement for Local Cooperation. In order to clearly define the obligations of the Corps and of non-Federal interests, a CA with the NSAP non-Federal sponsor is required. Requirements are addressed in paragraphs (l)(2) through (10) of this section. When another Federal agency is the lead Federal agency, a Memorandum

of Agreement (MOA) between the Corps and that agency is required. Wording of MOA's will be similar to, and consistent with, requirements detailed in paragraphs (l)(2) through (10) of this section for CA's, with appropriate modifications based on the other Federal agencies' authorized expenditures and programs.

(2) The CA requirements of subpart G of this part are not applicable to NSAP's.

(3) Items of Local Cooperation. For NSAP's, non-Federal interests shall:

(i) Provide without cost to the United States all borrow sites and dredged or excavated material disposal areas necessary for the project;

(ii) Hold and save the United States free from damages due to the project, except for damages due to the fault or negligence of the United States or its contractor; and

(iii) Maintain and operate the project after completion in a manner satisfactory to the Chief of Engineers.

(4) *Cost sharing.* The Corps may assume up to 100 percent of the costs of implementing an NSAP, subject to the limitations set forth in paragraph (c) of this section.

(5) *Eligibility under other Federal programs.* NSAP CA's shall not prohibit non-Federal interests from accepting funding from other Federal agencies, so long as the provision of such other Federal agency funding is not prohibited by statute.

(6) *Contributed funds.* Contributed funds may be accepted without further approval by the Chief of Engineers upon execution of the CA by all parties. The required certificate of the district commander will cite 33 U.S.C. 701h as the pertinent authority.

(7) *Obligation of contributed funds.* In accordance with OMB Circular A–34, all contributed funds must be received in cash and deposited with the Treasury before any obligations can be made against such funds.

(8) *Prohibition of future assistance.* The prohibition of future assistance described in paragraph (j) of this section must be included in the NSAP CA.

(9) *Assurance of compliance with Executive Order 11988.* NSAP CA's shall include acknowledgment of, and a statement of planned adherence to, Executive Order 11988, Floodplain Management, 3 CFR 117 (1977 Compilation), or as it may be revised in the future, by the NSAP sponsor.

(10) The CA must include a statement of legal restrictions placed on formerly protected lands that would preclude future use and/or development of such lands in a fashion incompatible with the purposes of the NSAP.

(m) *Acquisition of LERRD's.* (1) For the acquisition of LERRD's, reimbursement may be made to the non-Federal sponsor of an NSAP. Such reimbursements are subject to the normal Corps land acquisition process, funding caps set forth in (c) of this section, and availability of appropriations.

(2) For the acquisition of LERRD's, Corps funding may be combined with the funding of other Federal agencies, absent specific statutory language or principle prohibiting such combinations, under the terms of the MOA with other Federal agencies.

§ 203.51 Levee owner's manual.

(a) *Authority.* In accordance with section 202(f) of Public Law 104–303, the Corps will provide a levee owner's manual to the non-Federal sponsor of all flood control works in an Active status in the RIP.

(b) *Policies.* (1) *Active non-Federal projects.* A levee owner's manual developed and distributed by the Corps will be provided to all sponsors of Active non-Federal projects. The levee owner's manual will include the standards that must be met to maintain an Active status in the Rehabilitation and Inspection Program. Levee owner's manuals will also be provided, upon request, to sponsors of Inactive non-Federal projects so that the sponsors may evaluate their projects and prepare for an IEI to gain an Active status in the RIP.

(2) *Federal projects.* The Operation and Maintenance Manual specified by 33 CFR 208.10(a)(10) will fulfill the requirement of providing a levee owner's manual if the Corps has not provided a separate levee owner's manual to the sponsor of a Federal project.

(c) *Procedural requirements.* Levee Owner's Manuals will be initially provided to non-Federal sponsors of Active flood control works during scheduled CEI's and IEI's. Sponsors of Inactive projects and private levee owners will be provided manuals upon written request to the responsible Corps district.

§ 203.52 [Reserved]

Subpart E—Emergency Water Supplies: Contaminated Water Sources and Drought Assistance

§ 203.61 Emergency water supplies due to contaminated water source.

(a) *Authority.* The Chief of Engineers is authorized to provide emergency supplies of clean water to any locality confronted with a source of contaminated water causing, or likely to cause, a substantial threat to the public health and welfare of the inhabitants of the locality.

(b) *Policies.* (1) Any locality faced with a threat to public health and welfare from a contaminated source of drinking water is eligible for assistance.

(2) Eligibility for assistance will be based on one or more of the following factors:

(i) The maximum contaminant level *or* treatment technique for a contaminant, as established by the Environmental Protection Agency pursuant to the Safe Drinking Water Act (*see* 40 CFR 141), is exceeded.

(ii) The water supply has been identified as a source of illness by a tribal, State, or Federal public health official. The specific contaminant does not have to be identified.

(iii) An emergency (*e.g.*, a flood or chemical spill) has occurred that has resulted in either: one or more contaminants entering the source on a sufficient scale to endanger health; or, the emergency has made inoperable the equipment necessary to remove known contaminants.

(iv) The presence of a contaminant is indicated on the basis of other information available.

(3) Corps assistance will be directed toward the provision of the minimum amount of water required to maintain the health and welfare requirements of the affected population. The quantity of water and the means of distribution will be at the discretion of the responsible Corps official, who will consider the needs of the individual situation, the needs of the affected community, and the cost effectiveness of providing water by various methods.

(4) If a locality has multiple sources of water, assistance will be furnished only to the extent that the remaining sources, with reasonable conservation measures, cannot provide adequate supplies of drinking water.

(5) Loss of water supply is not a basis for assistance under this authority.

(6) Water will not be furnished for commercial processes, except as incidental to the use of existing distribution systems. This does not prohibit the furnishing of water for drinking by employees and on-site customers. Water for preparing retail meals and similar personal needs may be provided to the extent it would be furnished to individuals.

(7) The permanent restoration of a safe supply of drinking water is the responsibility of local interests.

(8) Corps assistance is limited to 30 days, and requires the local interests to provide assurances of cooperation in a CA. (*See* subpart G of this part.)

Extension of this 30-day period requires agreement (as an amendment to the previously signed CA) between the State and the Corps. This agreement must cover specified services and responsibilities of each party, and provision of a firm schedule for local interests to provide normal supplies of water.

(9) State, tribal, and local governments must make full use of their own resources, including National Guard capabilities.

(c) *Governor's request.* A letter signed by the Governor, or his or her authorized representative, requesting Corps assistance and addressing the State's commitments and capabilities in response to the emergency situation, is required. All requests should identify the following information:

(1) Describe the local and State efforts undertaken. Verify that all reasonably available resources have been committed.

(2) Identify the specific needs of the State, and the required Corps assistance.

(3) Identify additional commitments to be accomplished by the State.

(4) Identify the project sponsor(s).

(d) *Non-Federal responsibilities.* Non-Federal interests are responsible for restoration of the routine supply of clean drinking water, including correcting any situations that cause contamination. If assistance is furnished by the Corps, local interests must furnish the basic requirements of local cooperation as detailed in the Cooperation Agreement. In all cases, reasonable water conservation measures must be implemented. Local interests will be required to operate and maintain any loaned equipment, and to remove and return such equipment to Federal interests, in a fully maintained condition, after the situation is resolved.

§ 203.62 Drought assistance.

(a) *Authority.* The Chief of Engineers, acting for the Secretary of the Army, has the authority under certain statutory conditions to construct wells for farmers, ranchers, political subdivisions, and to transport water to political subdivisions, within areas determined to be drought-distressed.

(b) *General policy.* (1) It is a non-Federal responsibility for providing an adequate supply of water to local inhabitants. Corps assistance to provide emergency water supplies will only be considered when non-Federal interests have exhausted reasonable means for securing necessary water supplies, including assistance and support from other Federal agencies.

(2) Before Corps assistance is considered under this authority, the applicability of other Federal assistance authorities must be evaluated. If these programs cannot provide the needed assistance, then maximum coordination should be made with appropriate agencies in implementing Corps assistance.

(c) *Governor's request.* A letter signed by the Governor, requesting Corps assistance and addressing the State's commitments and capabilities with response to the emergency situation, is required. All requests should identify the following information:

(1) A description of local and State efforts undertaken. A verification that all available resources have been committed, to include National Guard assets.

(2) Identification of the specific needs of the State, and the required Corps assistance.

(3) Identification of the additional commitments to be accomplished by the State.

(4) Identification of the project sponsor(s).

(d) *Definitions applicable to this section:*

(1) *Construction.* This term includes initial construction, reconstruction, or repair.

(2) *Drought-distressed area.* An area that the Secretary of the Army determines, due to drought conditions, has an inadequate water supply that is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the impacted area, including the threat of damage or loss of property.

(3) *Eligible applicant.* Any rancher, farmer or political subdivision within a designated drought-distressed area that is experiencing an inadequate supply of water due to drought.

(4) *Farmer or rancher.* An individual who realizes at least one-third of his or her gross annual income from agricultural sources, and is recognized in the community as a farmer or rancher. A farming partnership, corporation, or similar entity engaged in farming or ranching, which receives its majority income from such activity, is also considered to be a farmer or rancher, and thus an eligible applicant.

(5) *Political subdivision.* A city, town, borough, county, parish, district, association, or other public body created by, or pursuant to, Federal or State law, having jurisdiction over the water supply of such public body.

(6) *Reasonable cost.* In connection with the Corps construction of a well, means the lesser of:

(i) The cost of the Chief of Engineers to construct a well in accordance with these regulations, exclusive of:

(A) The cost of transporting equipment used in the construction of wells; and

(B) The cost of investigation and report preparation to determine the suitability to construct a well; or

(ii) The cost to a private business of constructing such a well.

(7) *State.* Any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Marianas Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(d) *Guidance*—construction of wells. (1) Assistance to an eligible applicant for the construction of a well may be provided on a cost-reimbursable basis if:

(i) It is in response to a written request by a farmer, rancher, or political subdivision for construction of a well under Public Law 84–99.

(ii) The applicant is located within an area that the Secretary of the Army has determined to be drought-distressed.

(iii) The Secretary of the Army has made a determination that:

(A) The applicant, as a result of the drought, has an inadequate supply of water.

(B) An adequate supply of water can be made available to the applicant through the construction of a well.

(C) As a result of the drought, a private business could not construct the well within a reasonable time.

(iv) The applicant has secured the necessary funding for well construction from commercial or other sources, or has entered into a contract to pay to the United States the reasonable cost of such construction with interest over a period of years, not to exceed 30, as the Secretary of the Army deems appropriate.

(v) The applicant has obtained all necessary Federal, State and local permits.

(2) The financing of the cost of construction of a well by the Corps under this authority should be secured by the project applicant.

(3) The project applicant will provide the necessary assurances of local cooperation by signing a Cooperation Agreement (subpart G of this part) prior to the start of Corps work under this authority.

(4) Equipment owned by the United States will be utilized to the maximum extent possible in exercising the authority to drill wells, but can only be used when commercial firms cannot provide comparable service within the time needed to prevent the applicant from suffering significantly increased hardships from the effects of an inadequate water supply.

(e) *Guidance-transport of water.* (1) Assistance to an applicant in the

transportation of water may be provided if:

(i) It is in response to a written request by a political subdivision for transportation of water.

(ii) The applicant is located within an area that the Secretary of the Army has determined to be drought-distressed.

(iii) The Secretary of the Army has made a determination that, as a result of the drought, the applicant has an inadequate supply of water for human consumption, and the applicant cannot obtain water.

(2) Transportation of water by vehicles, small diameter pipe line, or other means will be at 100 percent Federal cost.

(3) Corps assistance in the transportation of emergency water supplies will be provided only in connection with water needed for human consumption. Assistance will not be provided in connection with water needed for irrigation, recreation, or other non-life supporting purposes, or livestock consumption.

(4) Corps assistance will not include the purchase of water, nor the cost of loading or discharging the water into or from any Government conveyance, to include Government-leased conveyance.

(5) Equipment owned by the United States will be utilized to the maximum extent possible in exercising the authority to transport water, consistent with lowest total Federal cost.

(f) *Request for assistance.* A written request must be made to the district commander with Civil Works responsibility for the affected area. Upon receipt of a written request, the appropriate State and Federal agencies will be notified, and coordination will continue as appropriate throughout the assistance.

Subpart F—Advance Measures

§ 203.71 Policy.

Advance Measures consists of those activities performed prior to a flood event, or potential flood event, to protect against loss of life and/or significant damages to improved property from flooding. Emergency work under this authority will be considered when requested by the Governor of a State confronted with an imminent threat of unusual flooding. Corps assistance will be to complement the maximum efforts of tribal, State, and local authorities. Projects will be designed for the specific threat, normally of expedient-type construction, and typically temporary in nature.

§ 203.72 Eligibility criteria and procedures.

(a) *Threat of flooding.* An *imminent* threat of *unusual* flooding must exist before Advance Measures projects can be approved. The threat may be established by National Weather Service predictions, or by Corps of Engineers determinations of unusual flooding from adverse or unusual conditions. The threat must be clearly defined to the extent that it is readily apparent that damages will be incurred if preventive action is not taken immediately.

(b) *Governor's request.* A letter signed by the Governor, requesting Corps assistance and addressing the State's commitments and capabilities with response to the emergency situation, is required. All requests should identify the following information:

(1) Describe the non-Federal efforts undertaken. Verify that all available resources have been committed.

(2) Identify the specific needs, and the required Corps assistance.

(3) Identify additional commitments to be accomplished by the non-Federal interests.

(4) Identify the non-Federal sponsor(s).

(c) *Feasibility.* The proposed work should be temporary in nature, technically feasible, designed to deal effectively and efficiently with the specific threat, and capable of construction in time to prevent anticipated damages.

(d) *Economic justification.* All work undertaken under this category must have a favorable benefit-to-cost ratio, under Corps of Engineers economic guidelines.

(e) *Local cooperation/responsibilities.* Subpart G of this part provides requirements for a Cooperation Agreement needed to provide local assurances. The project sponsor must remove temporary works constructed by the Corps when the operation is over, at no cost to the Corps.

(f) *Contingency planning efforts for potential Advance Measures activities.* Occasionally weather phenomena occur which produce a much higher than normal probability or threat of flooding which may be predicted several months in advance of occurrence or significant impact. Impacts on specific locations may be unpredictable, but regional impacts may have a high likelihood of occurrence. In such situations, the Corps may provide technical and contingency planning assistance to tribal, State, and local agencies, commensurate with the predicted weather phenomenon, based on requests for assistance from such tribal, State, and local agencies. Specific Advance Measures projects must be addressed as specified in paragraph (b) of this section.

(g) *Definitions.*

(1) *Imminent threat.* A subjective statistical evaluation of how quickly a threat scenario can develop, and how likely that threat is to develop in a given geographical location. Implicit in the timing aspect can be considerations of available time (when the next flood or storm event is likely to occur), season (*e.g.,* a snowpack that will melt in the coming spring runoff), or of known cyclical activities.

(2) *Unusual flooding.* A subjective determination that considers potential ability to approach an area's flood of record, a catastrophic level of flooding, or a greater than 50-year level of flooding.

Subpart G—Local Interests/ Cooperation Agreements

§ 203.81 General.

(a) *Requirements for Cooperation Agreements.* In order to maintain a firm understanding between the Corps and non-Federal interests concerning the responsibilities of each party in responding to or recovering from a natural disaster, division or district commanders shall negotiate a cooperation agreement (CA) with a non-Federal sponsor whenever assistance (other than short term technical assistance) is furnished. CA's do not require approval by HQUSACE unless they contain special or unusual conditions. For assistance to other than a public entity, a public agency is required to be the non-Federal sponsor, co-sign the agreement, and be responsible, from the Corps perspective, for accomplishment of all work and conditions required in the CA. Project sponsors must meet the definition contained in § 203.15.

(b) *Request for assistance.* (1) For urgent situations involving Flood Response activities, division/district commanders may respond to oral requests from responsible representatives of local interests. However, all oral requests must be confirmed in writing. Assistance can be furnished before the written statement is received.

(2) Before furnishing assistance (other than short term technical assistance) under Advance Measures, or under Emergency Water Supplies, the district/ division commander must receive a request, signed by the Governor (or the Governor's representative for Emergency Water assistance due to a contaminated source), identifying the problem, verifying that all available State and

local resources have been committed, and requesting Federal assistance.

§ 203.82 Requirements of local cooperation.

It is Corps policy that provision of assistance under Public Law 84–99 will, insofar as feasible, require local interests to: provide without cost to the United States all LERRD's necessary for the authorized work; hold and save the United States free from damages due to the authorized work, exclusive of damages due to the fault or negligence of the United States or its contractor; maintain and operate, in a manner satisfactory to the Chief of Engineers, all the works after completion. When assistance includes the construction of temporary protective works, the maintain and operate clause is modified by adding (or substituting, as applicable) the requirement for local interests to remove any temporary works constructed by the Corps under Public Law 84–99. If any permanent works are constructed, then the sponsor is required to operate and maintain the project in accordance with requirements determined by the Corps.

(a) *Furnishing of LERRD's.* This item provides for sites of structures, for borrow and disposal areas, and for access. It also provides for all other rights in, upon, through, or over private property as needed by the United States in connection with the authorized work. Performance by the local interests under their assurance to furnish LERRD's will normally not be considered a contribution. If more advantageous to the Federal Government, borrow and disposal areas may be assumed as a Federal responsibility. Easements must be provided for future Federal inspection of maintenance or removal. If a public agency sponsors a project for a non-public applicant, the applicant must provide an easement to the sponsor for future maintenance or removal, as well as for Federal inspection. Easements should extend to the life of the project.

(b) *Hold and save clause.* This clause serves as legal protection of the government. Where property concerned is under tenancy, both the property owner and the tenant should acknowledge the non-Federal sponsor's signed CA.

(c) *Maintain and operate clause.* This item is intended to protect the investment of government resources and provide proper stewardship of resources entrusted to the Corps. This clause must include: ''It is understood that the foregoing maintenance and operation requirement extends to interrelated features of all protective work under the control of (insert name of sponsor, and owner if appropriate).''

(d) *Removal of temporary works.* Local interests are responsible for the removal of all temporary works constructed by the Corps, which are unsuitable for upgrade to permanent structures. Structures may be deemed unsuitable due to inherent health, access, or safety problems that could result from their location. The wording of this clause must not preclude the use of other Federal assistance programs to fund removal.

(e) *Request for retention of temporary flood control works.* Local interests may ask to retain a temporary structure for protection from future floods. This will not be approved by the Corps unless the works are upgraded to meet all Corps criteria for permanent projects. Public Law 84–99 funds will not be used to upgrade the structure. An upgraded project must comply with permitting, environmental, and other regulatory and legal requirements. Unless upgraded, such projects are not eligible for rehabilitation, and must be removed in accordance with paragraph (d) of this section. Unless upgraded, temporary projects which are not removed by the local sponsor will cause all projects with the same sponsor to lose eligibility for Public Law 84–99 assistance. Local interests must initiate action to upgrade or remove the temporary works within 30 days after the flood threat has passed.

(f) *Cost sharing.* (1) The Federal Government may assume up to 80 percent of the eligible construction costs for rehabilitation of non-Federal flood control projects, and up to 100 percent of the eligible construction costs for rehabilitation of Federal flood control projects. The Federal Government may assume up to 100 percent of the eligible construction costs for rehabilitation of HSPP's. Sponsors will provide their share of costs as provided for in § 203.84. The sponsor's share is in addition to providing costs for LERRD's, and any costs for correction of any deferred/deficient maintenance. The Corps will determine the dollar value of any in-kind services provided by the local sponsor.

(2) For those unusual occasions where permanent construction (vice the temporary standard) for Advance Measures projects is employed, the local sponsor will normally be required to provide 25 percent of the project cost, in addition to LERRD's.

§ 203.83 Additional requirements.

(a) *Maintenance deficiencies.* Rehabilitation, Emergency Water, Post Flood Response, and Advance Measures authorities may not be used to correct deferred or deficient maintenance. Such correction must be accomplished by, or at the expense of, local interests. This may include restoring normal levee or dune height after subsidence, replacement of deteriorated components such as outlet structures and pipes, removal of debris, and new construction items such as protection against erosion. This restriction on use of these authorities does not preclude furnishing flood fight assistance during an emergency.

(b) *Areas of minor damage, flood control works.* Separable areas with minor damage will be included in the maintenance program of local interests.

(c) *Minor completion items.* Local interests should be responsible for minor completion items, such as dressing fills, placing sod, or seeding completed work.

(d) *Adequacy of requirements of local cooperation.* In determining the adequacy of the pledge of local cooperation, district/division commanders must consider the local sponsor's performance capability, taking into account any shortcomings in meeting prior commitments. Local sponsors should make provisions to establish and provide resources for a ''Contingency Fund'' to meet future maintenance requirements if apparent inadequacies of protective works indicate maintenance costs will be unusually high. Local sponsors should make provisions to establish and provide resources for a ''Capital Improvement Fund'' to meet future costs of capital improvement projects such as replacement of culverts in levees, pump station equipment, *etc.*

(e) *Eligibility under other Federal programs.* The Cooperation Agreement must be worded to allow local interests to accept funding from other Federal programs for meeting the local responsibility. For example, removal of temporary works will be without cost under Corps Public Law 84–99 assistance, but will not be ''at no cost to the United States.'' Use of another Federal agency's funds is contingent upon that agency providing the Corps written assurance that such usage does not violate any existing laws or rules concerning the usage or expenditure of such funds.

§ 203.84 Forms of local participation—cost sharing.

In addition to the standard requirements of local cooperation and according to the circumstances, local participation in project work may be in the form of: contributed funds; the furnishing of materials, equipment, or services; and/or accomplishment of

work either concurrently or within a specified reasonable period of time. The final terms agreed upon will be set forth in writing and made a part of the CA before commencement of work.

(a) *Contributed funds.* Contributed funds may be accepted, or refunded, without further reference or approval by the Chief of Engineers. The required certificate of the district commander will cite 33 U.S.C. 701h as the pertinent authority.

(b) *Obligation of contributed funds.* Per OMB Circular A–34, all contributed funds must be received in cash and deposited with the Treasury before any obligations can be made against such funds. Public Law 84–99 assistance for well construction is exempted from this requirement because financing is specifically authorized. However, the CA for such well construction assistance (*see* subpart G of this part) must be signed in advance of any obligations. To reduce administrative problems, CA terms for well construction should be for no longer a period than that which will allow for payments within the means of the applicant. Public Law 84–99 limits the term to a maximum of 30 years.

(c) *Provision of work or services in kind.* To the extent practicable, local interests should be allowed to minimize the amount of contributed funds by providing equivalent work or services in kind. Such services do not include LERRD's.

§ 203.85 Rehabilitation of Federal Flood Control Projects.

Some sponsors of Federal flood control projects are not required to furnish written assurances of local cooperation, when such assurances already exist from the PCA of the original construction of the project. In lieu of a new PCA, the Corps will notify the sponsor, in writing, of the sponsor's standing requirements. These requirements include such items as LERRD's, costs attributable to deficient or deferred maintenance, removal of temporary works, cost-sharing requirements, and any other requirements contained in § 203.82. The project sponsor must acknowledge its responsibilities prior to the provision of Rehabilitation Assistance. If the existing PCA does not adequately address responsibilities, then a CA will be required.

§ 203.86 Transfer of completed work to local interests.

Responsibility for operation and maintenance of a project for which emergency work under Public Law 84–99 is undertaken will always remain with the non-Federal sponsor throughout the process, and thereafter. The Corps will notify the non-Federal sponsor by letter when repair/rehabilitation/work efforts are completed. Detailed instructions, and suggestions relative to proper maintenance and operation, may be furnished as an enclosure to this letter. The letter will remind the local interests that they are responsible for satisfactory maintenance of the flood control works in accordance with the terms of the PCA or CA. In appropriate cases for Federal projects, refer to the ''Flood Control Regulation for Maintenance and Operation of Flood Control Works: (33 CFR 208)'' or the project's Operation and Maintenance Manual. Reporting requirements placed on the non-Federal sponsor will vary according to organization and other circumstances.

[FR Doc. 03–9008 Filed 4–18–03; 8:45 am]

BILLING CODE 3710–92–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 2

[Docket No.: 2003–P–011]

Correspondence With the United States Patent and Trademark Office

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule; correction.

SUMMARY: The United States Patent and Trademark Office (Office) published in the **Federal Register** of March 25, 2003 (68 FR 14332) a final rule revising the rules of practice to change the mailing address for certain correspondence with the Office, and to change the titles of certain Office officials. This document corrects an error in the zip code set forth in the address for mailing trademark-related correspondence.

EFFECTIVE DATE: Effective on May 1, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Hannon, Office of the Commissioner for Trademarks, by telephone at (703) 308–8910, ext. 137; by e-mail to *mary.hannon@uspto.gov;* by facsimile transmission addressed to her at (703) 872–9280; or by mail marked to her attention and addressed to Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202–3514.

SUPPLEMENTARY INFORMATION: The Office published in the **Federal Register** of March 25, 2003 (68 FR 14332) a final rule that changed the mailing address for certain correspondence with the Office. This document amends § 1.1(a)(2) to correct the zip code in the address for mailing trademark-related documents (other than documents sent to the Assignment Services Division for recordation and requests for copies of trademark documents). Specifically, 37 CFR 1.1(a)(2) is amended to refer to ''22202–3514'' rather than ''22202–3513.''

In FR Doc. 03–6971, published on March 25, 2003 (68 FR 14332), make the following correction.

PART 37—[Corrected]

§ 1.1 [Corrected].

■ 1. On page 14335, in the third column, in § 1.1(a)(2), line 10, correct ''22202–3513'' to read ''22202–3514.''

Dated: April 15, 2003.

Lynne G. Beresford,

Deputy Commissioner for Trademark Examination Policy.

[FR Doc. 03–9696 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–7485–3]

Prevention of Significant Deterioration; Notice of Withdrawal of Delegation of Authority; Bay Area Air Quality Management District; Kern County Air Pollution Control District; Nevada Division of Environmental Protection; San Diego County Air Pollution Control District; Santa Barbara County Air Pollution Control District; Shasta County Air Quality Management District; South Coast Air Quality Management District; and Washoe County District Health Department

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of withdrawal of delegation of PSD permitting authority.

SUMMARY: This document is to inform interested parties that, by letters dated March 3, 2003, the Regional Administrator of EPA, Region 9, has rescinded the Region's delegations of authority to issue federal Prevention of Significant Deterioration (PSD) permits to the following agencies in California and Nevada: Bay Area Air Quality Management District; Kern County Air Pollution Control District; Nevada Division of Environmental Protection; San Diego County Air Pollution Control

District; Santa Barbara County Air Pollution Control District; Shasta County Air Quality Management District; South Coast Air Quality Management District; and Washoe County District Health Department.

DATES: The letters withdrawing delegation to these jurisdictions specify that the rescission of the PSD delegations is effective on March 3, 2003.

ADDRESSES: You can inspect copies of the delegation agreements and Region 9's letters rescinding each delegation agreement at our Region IX office during normal business hours. Due to security procedures, please call Curt Taipale at 415–972–3966 at least one day in advance of inspecting these documents at our office: Permits Office (AIR–3), Air Division, U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

You may also see copies of the pertinent delegation agreement and rescission letter at the following locations:

Bay Area Air Quality Management District, 939 Ellis Street, San Francisco, CA 94109.

California Air Resources Board, Stationary Source Division, Rule Evaluation Section, 1001 ''I'' Street, Sacramento, CA 95814.

Kern County Air Pollution Control District, 2700 ''M'' Street, Suite 302, Bakersfield, CA 93301–2370.

Nevada Division of Environmental Protection, Bureau of Air Pollution Control, 333 West Nye Lane, Carson City, NV 89706.

San Diego Air Pollution Control District, 9150 Chesapeake Drive, San Diego, CA 92123–1096.

Santa Barbara County Air Pollution Control District, 26 Castilian Drive B–23, Goleta, CA 93117.

Shasta County Air Quality Management District, 1855 Placer Street, Suite 101, Redding, CA 96001–1759.

South Coast Air Quality Management District, 21865 E. Copley Drive, Diamond Bar, CA 91765–4182.

Washoe County District Health Department, Air Quality Management Division, 401 Ryland Street, Suite 331, Reno, Nevada 89502.

FOR FURTHER INFORMATION CONTACT: Gerardo Rios, EPA Region IX, (415) 972–3974, or send e-mail to *rios.gerardo@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Background

In 1978, EPA published final regulations at 40 CFR 52.21, implementing the PSD program required under Part C of the Clean Air Act, 42 U.S.C. 7475–7479. *See* 43 FR 26403 (June 19, 1978). The PSD regulations provide authority to EPA to delegate the responsibility for conducting PSD source review to a State or local air pollution control agency. 40 CFR 52.21(u). In general, delegations are implemented through agreements between EPA Regions and state or local air pollution control agencies. These agreements are in essence contracts between the Agency and permitting agencies, setting out the responsibilities of each in carrying out the federal PSD program for that jurisdiction. The specific elements of delegation agreements vary to take into consideration particular circumstances, such as legal restrictions that may apply in a specific jurisdiction.

Pursuant to its authority under § 52.21(u), Region 9 entered into delegation agreements with the following permitting agencies on the date specified: Bay Area Air Quality Management District—April 23, 1986; Kern County Air Pollution Control District—August 12, 1999; Nevada Division of Environmental Protection—May 27, 1983; San Diego County Air Pollution Control District—November 21, 1985; Santa Barbara County Air Pollution Control District—August 21, 1985; Shasta County Air Quality Management District—July 8, 1985; South Coast Air Quality Management District—January 15, 1997; and Washoe County District Health Department—April 9, 1985. Region 9 published notices of the delegation agreements in the **Federal Register** at various dates.

On December 31, 2002, EPA published its Final Rule significantly revising 40 CFR 52.21. 67 FR 80186 (Dec. 31, 2002). The revised rules were effective on March 3, 2003.

Since publication of the revised PSD rules, Region 9 has consulted with each of the California permitting agencies that implemented 40 CFR 52.21 pursuant to a delegation agreement and with the California Air Resources Board (CARB). The permitting agencies and CARB have informed Region 9 that they are unable to implement 40 CFR 52.21 as revised without making changes to California law and/or local regulations. Region 9 has also discussed the issue with the Nevada Division of Environmental Protection, who indicated that changes to Nevada law would be necessary for either NDEP or the Washoe County District Health Department to implement the revisions to 40 CFR 52.21.

As the California and Nevada permitting agencies identified above did not believe that their current law would allow them to implement revised 40 CFR 52.21, Region 9 will resume issuing federal PSD permits as of the date the revisions to 40 CFR 52.21 take effect. Region 9 has issued a letter to each permitting agency in the Region that is implementing 40 CFR 52.21 pursuant to a delegation agreement, advising the permitting agencies that the delegation of federal PSD permitting authority would be rescinded effective March 3, 2003. A copy of each letter rescinding the PSD delegation of authority is available for inspection and copying at the addresses provided above.

EPA's withdrawal of authority to implement the federal PSD permitting program does not affect permitting requirements under state or local law. Companies should continue to work with their state or local permitting agencies to ensure that state or local permitting requirements are met.

II. EPA Action

We have written letters rescinding the delegation agreements to implement the regulations at 40 CFR 52.21 for the following California permitting agencies: Bay Area Air Quality Management District; Kern County Air Pollution Control District; San Diego County Air Pollution Control District; Santa Barbara County Air Pollution Control District; Shasta County Air Quality Management District; and South Coast Air Quality Management District. We have written a letter rescinding the delegation agreements to implement the regulations at 40 CFR 52.21 for the following Nevada permitting agencies: Nevada Division of Environmental Protection; Washoe County District Health Department.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental regulations, Reporting and recordkeeping requirements.

Dated: April 2, 2003.

Alexis Strauss,

Acting, Regional Administrator, Region IX.

[FR Doc. 03–9621 Filed 4–18–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–56–1–7491a; FRL–7485–6]

Approval and Promulgation of Implementation Plans; Louisiana: Revision to the Ozone Maintenance Plans for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans Consolidated Metropolitan Statistical Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is taking direct final action to approve a revision to the Louisiana SIP for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans Consolidated Metropolitan Statistical Area (CMSA) ozone maintenance areas, submitted by the State of Louisiana on December 4, 2000. The revision involves changes to the approved contingency plans. This rulemaking action is being taken under sections 110, 301 and part D of the Clean Air Act (CAA).

DATES: This rule is effective on June 20, 2003 without further notice, unless we receive adverse comment by May 21, 2003. If we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD–L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD–L), 1445 Ross Avenue, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Air Quality Division, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Joe Kordzi, at (214) 665–7186.

SUPPLEMENTARY INFORMATION:

Throughout this document ''we,'' ''us,'' and ''our'' refers to EPA.

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I. What Is the Background on This Action?

The CAA, as amended in 1977, required areas that were designated nonattainment based on a failure to meet the ozone National Ambient Air Quality Standard (NAAQS) to develop SIPs with sufficient control measures to expeditiously attain and maintain the standard. Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans CMSA were designated under section 107 of the 1977 CAA as nonattainment with respect to the ozone NAAQS on September 11, 1978 (40 CFR 81.319). As required by part D and section 110 of the 1977 CAA, the State of Louisiana submitted an ozone SIP. The EPA fully approved this ozone SIP on October 29, 1981 (46 FR 53412).

On November 15, 1990, the CAA Amendments of 1990 were enacted (Pub. L. 101–549, 104 Stat. 2399, codified at 42 U.S.C. 7401–7671q). The ozone nonattainment designation for these areas continued by operation of law according to section 107(d)(1)(C)(i) of the CAA, as amended in 1990 (56 FR 56694, November 6, 1991). For Beauregard, St. Mary, Lafayette, and Grant Parishes, the State had not yet collected the required three years of ambient air quality data necessary to petition for redesignation to attainment, so these Parishes were classified as unclassifiable-incomplete data for ozone. For the New Orleans CMSA, the State collected the required three years of ambient air quality data necessary to petition for redesignation to attainment, and these data demonstrated that the ozone standard had not been violated, so the New Orleans CMSA was designated as transitional for ozone. The Louisiana Department of Environmental Quality (LDEQ) then collected more than 3 years of ambient monitoring data that showed no violations of the one-hour ozone NAAQS of 0.12 parts per million. A violation of the ozone standard occurs if data show four or more exceedances during a consecutive 3-year period.

On April 23, 1993, Louisiana requested the redesignation to NAAQS ozone attainment for the New Orleans CMSA. On May 25, 1993, the State requested redesignation for Grant and Lafayette Parishes; and on June 14, 1993, for Beauregard and St. Mary Parishes. These requests were accompanied by an ozone maintenance SIP. Certain approvability issues were raised, and the State submitted revised redesignation requests and maintenance plans. All areas were redesignated to attainment on October 17, 1995, except for the New Orleans CMSA which was redesignated on December 1, 1995.[1]

The technical evaluation that follows includes a review of the revised contingency plan. We have also reviewed LDEQ's approach to ensure that this action is consistent with actions taken elsewhere in the nation.

II. What Features Are in the Current Contingency Plans for These Areas?

The approved contingency plans for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans CMSA, include measures to be adopted and implemented if future air quality conditions warrant such action. The State intended to review any future ozone exceedance to determine whether the episode was due to local emissions. If the ozone exceedance was a result of local conditions, then the contingency measure corresponding to that particular exceedance would be triggered, and the State would begin the rulemaking process to adopt the triggered measure into the State's regulations. Through this action, the LDEQ now revises its contingency plans for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans CMSA to make them consistent with contingency plans elsewhere in the State and the Nation.

III. What Are the State's Changes to These Contingency Plans?

The revision to the ozone SIP for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans CMSA consists of a change to the contingency plan triggering event. Currently, a second or third exceedance of the one-hour ozone standard results in a triggering event. This revision to the SIP would change the triggering event to be an actual violation of the one-hour ozone standard, which occurs upon the fourth exceedance in any consecutive three-year period. Also, this revision to the SIP clarifies the narrative portion of the contingency plan, which discusses the State's procedures for evaluation of whether a triggering event has occurred.

Section 175A of the CAA requires that an ozone maintenance plan include contingency provisions as necessary, to promptly correct any violation of the

[1] For detailed information concerning the ozone redesignation and SIP approval process and the applicable Federal guidance, please *see* 60 FR 472280 September 12, 1995. This action concerned the approval of the maintenance plan for St. James Parish and its redesignation to attainment for ozone.

one-hour ozone standard that occurs after redesignation of the area to attainment. The existing contingency plans for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans Consolidated Metropolitan Statistical Area (CMSA) include measures to be adopted prior to a recorded violation of the one-hour ozone standard. This approach identified VOC offsets and applicable Reasonably Available Control Technology (RACT) regulations to be adopted, based on two and three recorded ozone exceedances, respectively.

The existing contingency plan requires a review of the exceedance to determine whether the cause is due to local emissions. If the source of the exceedance is local, then appropriate measures are identified for implementation.

The LDEQ has revised its existing contingency plan to base the triggering event on a localized violation of the one-hour ozone standard (four exceedances in a consecutive three-year period). Additionally, the revised contingency plan identifies a menu of one or more contingency measures to be adopted if a future violation is recorded and determined to be due to local conditions. The menu includes:

1. Limiting VOC emissions from the filling of gasoline storage vessels;
2. Limiting VOC emissions from graphic arts for rotogravure and flexographic processes;
3. Limiting VOC emissions for synthetic organic chemical manufacturing industry reactor processes and distillation operations;
4. Limiting VOC emissions from batch processing;
5. Limiting VOC emission from cleanup solvent processing;
6. Limiting VOC emissions from industrial wastewater; and/or,
7. Implementing a 1.1 to 1 offset ratio for permits.

If, within 120 days after the recorded violation, it is determined that the recorded violation is due to local conditions, the Secretary of the LDEQ then has six months to select an appropriate measure, and an additional 20 months for implementation of that contingency measure to be completed. The selected contingency measure, therefore, will be implemented within 30 months of the recorded violation.

IV. What Is the Rulemaking Action?

The EPA has reviewed the SIP submittal for consistency with the Act, applicable EPA regulations and EPA policy. The contingency measures and the schedule for implementation described above satisfy the requirements of section 175A(d) of the Act, and EPA is approving this December 4, 2000, SIP submittal to revise the ozone maintenance plan for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans CMSA under sections 110(k)(3), 301(a), and part D of the Act.

V. Why Is This a ''Final Action?''

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the revisions to the contingency plans if adverse comments are received. This rule will be effective on June 20, 2003 without further notice unless we receive adverse comment by May 21, 2003. If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

VI. What Regulatory Assessment Requirements Apply for This Action?

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, 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 by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves 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. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register.** A major rule cannot take effect until 60 days after it is published in the **Federal Register.**

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 20, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (*See* section 307(b)(2)).

List of Subjects in 40 CFR Part 52

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

Dated: April 10, 2003.

Richard E. Greene,

Regional Administrator, Region 6.

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

PART 52—[AMENDED]

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

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

Subpart T—Louisiana

■ 2. Section 52.975 is amended by adding paragraph (g) to read as follows:

§ 52.975 Redesignations and maintenance plans; ozone.

* * * * *

(g) Approval.—The Louisiana Department of Environmental Quality (LDEQ) submitted to the EPA a request on December 4, 2000, to revise the Louisiana SIP for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans Consolidated Metropolitan Statistical Area ozone maintenance area. The revision involves changes to the approved contingency plans. The contingency measures and the schedule for implementation satisfy the requirements of section 175A(d) of the Act. The EPA therefore approved this request on June 20, 2003.

[FR Doc. 03–9619 Filed 4–18–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[OAR–2003–0003: FRL–7461–7]

RIN 2060–AE79

National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action promulgates national emissions standards for hazardous air pollutants (NESHAP) for new and existing reinforced plastic composites production facilities. The NESHAP regulate production and ancillary processes used to manufacture products with thermoset resins and gel coats. Reinforced plastic composites production facilities emit hazardous air pollutants (HAP), such as styrene, methyl methacrylate (MMA), and methylene chloride (dichloromethane). These HAP have adverse health effects including headache, fatigue, depression, irritation of skin, eyes, and mucous membranes. Methylene chloride has been classified as a probable human carcinogen. The NESHAP will implement section 112(d) of the Clean Air Act (CAA) by requiring all major sources in this category to meet HAP emissions standards reflecting the application of the maximum achievable control technology (MACT). We estimate the final NESHAP will reduce nationwide emissions of HAP from these facilities by approximately 7,682 tons per year (tpy) (43 percent).

EFFECTIVE DATE: April 21, 2003.

ADDRESSES: *Docket.* Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52) contains supporting information used in developing the standards. The docket is available for public viewing at the Office of Air and Radiation Docket and Information Center (Air Docket) in the EPA Docket Center, EPA West, Room B108, 1301 Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: For further information concerning applicability and rule determinations, contact the appropriate State or local agency representative. For information concerning the analyses performed in developing the NESHAP, contact Keith Barnett, U.S. EPA, Emission Standards Division, Minerals and Inorganic Chemicals Group, C504–05, Research Triangle Park, North Carolina 27711, (919) 541–5605, *barnett.keith@epa.gov.*

SUPPLEMENTARY INFORMATION: *Docket.* We have established an official public docket for this action under Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52). The docket is an organized and complete file of the information considered by the EPA in the development of this rulemaking. The docket is a dynamic file because material is added throughout the rulemaking process. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they can effectively participate in the rulemaking process. Along with the proposed and promulgated standards and their preambles, the contents of the docket, excluding interagency review materials, will serve as the record in the case of judicial review. (See section 307(d)(7)(A) of the CAA.) The regulatory text and other materials related to this rulemaking are available for review in the docket or copies may be mailed on request from the Air Docket by calling (202) 566–1742. A reasonable fee may be charged for copying docket materials.

Electronic Docket Access. You may access the final rule 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 in the above paragraph entitled ''Docket.'' Once in the system, select ''search,'' then key in the appropriate docket identification number.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's final NESHAP will also be available on the WWW through the Technology Transfer Network (TTN). Following the Administrator's signature, a copy of the NESHAP will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg.* The TTN provides information and technology exchange in various areas of air pollution control. If more information regarding the TTN is needed, call the TTN HELP line at (919) 541–5384.

Regulated Entities. Categories and entities potentially regulated by this action include:

Category	NAICS code	SIC code	Examples of regulated entities
Industry	325211 326122 325991 326191 327991 327993 332998 33312 33651 335311 335313 335312 33422 336211 336112 336211 33651 33653 336399 33612 336213 336413 336214	2821 3084 3087 3088 3089 3281 3296 3431 3531 3531 3612 3613 3621 3663 3711 3711 3713 3714 3714 3716 3728 3743 3792 3999	Reinforced plastic composites production facilities that manufacture intermediate and/or final products using styrene containing thermoset resins and gel coats.
Federal Government			Federally owned facilities that manufacture intermediate and/or final products using styrene containing thermoset resins and gel coats.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in §§ 63.5785 and 63.5787 of the final NESHAP. 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.

Judicial Review. The NESHAP for Reinforced Plastic Composites Manufacturing were proposed on August 2, 2001 (66 FR 40324). This action announces EPA's final decisions on the NESHAP. Under section 307(b)(1) of the CAA, judicial review of the final NESHAP is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by June 20, 2003. Under section 307(d)(7)(B) of the CAA, only an objection to a rule or procedure raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the final rule may not be challenged separately in any civil or criminal proceeding brought to enforce these requirements.

Outline. The information presented in this preamble is organized as follows:

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I. Introduction

A. What Is the Purpose of NESHAP?

The purpose of the final NESHAP is to protect the public health by reducing emissions of HAP from Reinforced Plastic Composite Manufacturing facilities.

B. What Is the Source of Authority for Development of NESHAP?

Section 112 of the CAA requires us to list categories and subcategories of major sources and area sources of HAP and to establish NESHAP for the listed source categories and subcategories. Reinforced Plastic Composites Production was included on the initial list of source categories published on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit 10 tpy or more of any one HAP or 25 tpy or more of any combination of HAP.

The CAA requires NESHAP to reflect the maximum degree of reduction in emissions of HAP that is achievable. This level of control is commonly referred to as the MACT.

The MACT floor is the minimum control level allowed for NESHAP. This concept appears in section 112(d)(3) of the CAA. For new sources, the MACT floor cannot be less stringent than the HAP emissions control that is achieved in practice by the best-controlled similar source. The MACT standards for existing sources can be less stringent than standards for new sources, but they cannot be less stringent than the average HAP emissions limitation achieved by the best-performing 12 percent of existing sources in the category or subcategory (or the best-performing five sources for categories or subcategories with fewer than 30 sources).

In developing MACT, we also consider control options that are more stringent than the floor. We may establish standards more stringent than the floor based on the consideration of cost of achieving the HAP emissions reductions, any non-air quality health and environmental impacts, and energy requirements.

C. What Processes and Operations Are Included in the Reinforced Plastic Composites Production Source Category?

The Reinforced Plastic Composites Production source category involves the production of plastic products from cross-linking resins, usually in combination with reinforcing materials and inorganic fillers. These products may have an outer surface produced with a styrene-containing gel coat. The production of products that do not contain reinforcing materials is also included in this category, as well as the production of intermediate compounds that are later used to make the final plastic products. These non-reinforced products were included because they are produced using the same types of resins, have similar HAP emissions characteristics, and would use similar HAP emissions controls. This source category is limited to those resins and gel coats which contain styrene, either by itself or with a combination of other monomers or solvents.

There are a wide variety of operations that use styrene-containing resins to make thermoset plastics. Such manufacturing operations include manual resin application, mechanical resin application, filament application, gel coat application, compression/injection molding, resin transfer molding, centrifugal casting, continuous lamination/casting, polymer casting, pultrusion, bulk molding compound (BMC) manufacturing, and sheet molding compound (SMC) manufacturing. There are also ancillary operations such as cleaning, mixing, repair, and HAP-containing materials storage, that occur in conjunction with these manufacturing operations. Many facilities will use multiple operations in manufacturing their products.

This source category also includes some repair operations that take place at a manufacturing facility, such as repairs of parts or products that are manufactured at the same facility that must be repaired due to defects or damage that occur during manufacturing, or repairs of parts that were originally manufactured at that location and have been returned for repair due to defects in the original manufacture or damage in shipment. No other types of repair operations are included in this source category. Facilities that perform non-routine manufacture of reinforced plastic composites parts solely to replace parts of a reinforced plastic composite product that has been in use are not considered to be manufacturing facilities, and repair operations at these types of facilities are not part of this source category. See § 63.5935 of the final rule for the definition of non-routine manufacture. We believe that repair operations that are collocated with manufacturing operations that originally produce the reinforced plastic composites being repaired use the same materials as the manufacturing processes. Repair operations that are not collocated may use different materials and application techniques.

II. Summary of the Final NESHAP

A. What Source Categories and Subcategories Are Affected by the Final NESHAP?

Today's final rule applies to the Reinforced Plastic Composites Production source category. We developed subcategories based on size (*i.e.,* tpy of HAP emitted) in defining the new source MACT floors. These subcategories are sources that emit 100 tpy or more from open molding, pultrusion, centrifugal casting, continuous lamination/casting, SMC and BMC manufacturing, and mixing operations; and all other new sources. The new source MACT floors incorporate add-on controls for sources in the first subcategory, except for facilities producing large parts, and pollution prevention for other new sources.

The floors for existing sources are mainly based on pollution prevention, not add-on controls. Where floors are based mainly on pollution-prevention control techniques, we did not subcategorize by size. However, we did segregate existing sources by resin application technique, resin type, and final products, and developed separate floors for each process/product grouping.

B. What Are the Primary Sources of HAP Emissions and What Are the Emissions?

The primary source of HAP emissions from the Reinforced Plastic Composites Production source category is the evaporation of styrene and other organic liquid HAP contained in the resin during the application and/or curing of the resin. Since styrene participates in the curing reaction, not all of it is emitted. Organic HAP emissions also occur during ancillary operations such as cleaning, mixing, repair, and HAP containing materials storage. Although some gel coats or resins may contain inorganic HAP, such as lead, in resin solids or pigments, we have no data to

indicate the inorganic HAP are emitted from the production process. Therefore, only organic HAP are addressed by the final NESHAP.

Total baseline HAP emissions from the Reinforced Plastic Composites Production source category are approximately 18,000 tpy. The HAP emissions from spray lay-up and gel coating constitute approximately 52 percent and 23 percent of the total baseline HAP emissions, respectively. The remaining HAP emissions are primarily from hand lay-up/bucket and tool application, compression molding/injection molding, filament application, SMC manufacturing, and centrifugal casting.

C. What Is the Affected Source?

The affected source is the combination of all operations regulated under these standards at a reinforced plastic composites production facility. The following regulated operations are typically performed at reinforced plastic composites production facilities and are part of the affected source: open molding, closed molding, centrifugal casting, continuous lamination/casting, polymer casting, pultrusion, SMC manufacturing, equipment cleaning, mixing, BMC manufacturing, repair, and storage of HAP-containing materials. Repair operations are also included as part of the affected source if the repair is made to a part manufactured at that location.

D. What Are the HAP Emissions Limits, Operating Limits, and Other Standards?

We are promulgating the requirements of the final NESHAP in the form of HAP emissions limits (*i.e.,* HAP emissions factors, mass rate, or percent reduction), operating limits, and work practice standards. Work practice standards include design, equipment, work practices, and operational standards.

The final NESHAP contain a HAP emissions threshold that distinguishes between sources that typically can meet the HAP emissions limits using pollution prevention, and those that must use add-on controls. This threshold is called the ''100 tpy threshold.'' For existing sources, you determine if you are below, above, or equal to the 100 tpy threshold by summing all HAP emissions from centrifugal casting and continuous lamination/casting operations at the source. In determining HAP emissions from centrifugal casting operations, only HAP emissions from venting of the centrifugal casting mold during spinning and/or curing are considered. The HAP emissions that occur from application of resin or gel coat to an open centrifugal casting mold are considered to be open molding HAP emissions. The HAP emissions from other operations or processes are not included because the 100 tpy threshold does not apply to other operations or processes.

For new sources, you determine if you are below, above, or equal to the 100 tpy threshold by summing all HAP emissions from open molding, pultrusion, SMC and BMC manufacturing, centrifugal casting, continuous lamination/casting, and mixing operations at the source. The HAP emissions from closed molding, cleaning, repair and HAP-containing materials storage are not used in threshold determinations. In determining HAP emissions from centrifugal casting operations, only HAP emissions from venting of the centrifugal casting mold are included. The HAP emissions that occur from application of resin or gel coat to an open centrifugal casting mold are considered to be open molding HAP emissions.

The requirements for new and existing sources that are below the 100 tpy threshold are based on the MACT floor level of control. These requirements are summarized in the following table:

TABLE 1.—SUMMARY FOR EXISTING SOURCES, AND NEW SOURCES BELOW THE 100 TPY HAP EMISSIONS THRESHOLD

If your operation type is . . .	And you use . . .	MACT for existing facilities and new facilities that are below the 100 tpy threshold is . . .
1. Open molding—corrosion-resistant and/or high strength (CR/HS).	a. mechanical resin application	112 lb/ton.
	b. filament application	171 lb/ton.
	c. manual resin application	123 lb/ton.
2. Open molding—non-CR/HS	a. mechanical resin application	87 lb/ton.
	b. filament application	188 lb/ton.
	c. manual resin application	87 lb/ton.
3. Open molding—tooling	a. mechanical resin application	254 lb/ton.
	b. manual resin application	157 lb/ton.
4. Open molding—low-flame spread/low-smoke products.	a. mechanical resin application	497 lb/ton.
	b. filament application	270 lb/ton.
	c. manual resin application	238 lb/ton.
5. Open molding—shrinkage controlled resin	a. mechanical resin application	354 lb/ton.
	b. filament application	215 lb/ton.
	c. manual resin application	180 lb/ton.
6. Open molding—gel coat [b]	a. tooling gel coating	437 lb/ton.
	b. white/off white pigmented gel coating	267 lb/ton.
	c. all other pigmented gel coating	377 lb/ton.
	d. CR/HS or high performance gel coat	605 lb/ton.
	e. fire retardant gel coat	854 lb/ton.
	f. clear production gel coat	522 lb/ton.
7. Centrifugal casting—CR/HS [c]	N/A	25 lb/ton.
8. Centrifugal casting—non-CR/HS [c]	N/A	20 lb/ton.
9. Pultrusion [d]	N/A	Reduce total HAP emissions by at least 60 weight percent.
10. Continuous lamination/casting	N/A	Reduce total HAP emissions by at least 58.5 weight percent or not exceed a HAP emissions limit of 15.7 lbs of HAP per ton of neat resin plus and neat gel coat plus.

TABLE 1.—SUMMARY FOR EXISTING SOURCES, AND NEW SOURCES BELOW THE 100 TPY HAP EMISSIONS THRESHOLD—Continued

If your operation type is . . .	And you use . . .	MACT for existing facilities and new facilities that are below the 100 tpy threshold is . . .
11. A closed molding operation using compression/injection molding.		Uncover, unwrap or expose only one charge per mold cycle per compression/injection molding machine. For machines with multiple molds, one charge means sufficient material to fill all molds for one cycle. For machines with robotic loaders, no more than one charge may be exposed prior to the loader. For machines fed by hoppers, sufficient material may be uncovered to fill the hopper. Hoppers must be closed when not adding materials. Materials may be uncovered to feed to slitting machines. Materials must be recovered after slitting.
12. A cleaning operation		Do not use cleaning solvents that contain HAP, except that HAP containing materials may be used in closed systems, and to clean cured resin from application equipment. Application equipment includes any equipment that directly contacts resin between storage and applying resin to the mold or reinforcement.
13. A HAP-containing materials storage operation.		Keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials. Bulk HAP-containing materials storage tanks may be vented as necessary for safety.
14. A SMC manufacturing operation		Close or cover the resin delivery system to the doctor box on each SMC manufacturing machine. The doctor box itself may be open.
15. A SMC manufacturing operation		Use a nylon containing film or a film with an equal or lower permeability to styrene compared to a nylon containing film to enclose SMC.
16. A mixing or BMC manufacturing operation [d]		Use mixer covers with no visible gaps present in the mixer covers. Gaps of up to 1 inch are permissible around mixer shafts and any required instrumentation.
17. A mixing or BMC manufacturing operation [e]		Do not actively vent mixers to the atmosphere while the mixing agitator is turning.
18. A mixing or BMC manufacturing operation [e]		Keep the mixer covers closed during mixing except when adding materials to the mixing vessels.
19. A new or existing pultrusion operation manufacturing parts with 1000 or more reinforcements and a cross section area of 60 square inches or more that is not subject to the 95 percent HAP emissions requirement.		i. not allow vents from the building ventilation system, or local or portable fans to blow directly on or across the wet-out area(s). ii. not permit point suction of ambient air in the wet-out area(s) unless that air is directed to a control device. iii. use devices such as deflectors, baffles, and curtains when practical to reduce air flow velocity across the wet-out area(s). iv. direct any compressed air exhausts away from resin and wet-out area(s). v. convey resin collected from drip-off pans or other devices to reservoirs, tanks, or sumps via covered troughs, pipes, or other covered conveyance that shields the resin from the ambient air. vi. cover all reservoirs, tanks, sumps, or HAP-containing materials storage vessels except when they are being charged or filled. vii. cover or shield from ambient air resin delivery systems to the wet-out area(s) from reservoirs, tanks, or sumps where practical.

[a] HAP emissions limits for open molding and centrifugal casting expressed as lb/ton are calculated using the equations shown in Table 1 to subpart WWWW of part 63. You must be at or below these values based on a 12-month rolling average.

[b] These limits are for spray application of gel coat. Manual gel coat application may be included as part of spray gel coat application for compliance purposes using the same HAP emissions factor equation and HAP emissions limit.

[c] Centrifugal casting operations where the resin is injected into the mold and the mold is completely closed during spinning and curing may be treated as closed molding operations.

[d] Pultrusion machines that produce parts with 1000 or more reinforcements and a cross sectional area of 60 inches or more are not subject to this requirement. Their requirement is the work practice of air flow management reduction.

[e] Containers of 5 gallons or less may be open when active mixing is taking place, or during periods when they are in process (*i.e.*, they are actively being used to apply resin). For polymer casting mixing operations, containers with a surface area of 500 square inches or less may be open while active mixing is taking place.

For existing sources that are equal to or above the 100 tpy HAP emissions threshold, centrifugal casting and continuous lamination/casting operations meet an above-the-floor requirement based on 95 percent control of HAP emissions.

The requirements for new sources that are equal to or above the 100 tpy HAP emissions threshold are also based on the floor level of control. The floor level of control for these sources is a 95 percent reduction of HAP emissions for open molding, pultrusion, SMC and BMC manufacturing, centrifugal casting, continuous lamination/casting, and mixing operations with one exception. For open molding and pultrusion operations at new sources that produce large parts, the floor level of control is the same as existing sources shown in the previous table. All other operations meet the requirements shown in the previous table.

In developing final requirements for reinforced plastic composites affected sources, we have provided an alternative format where possible. For example, a facility meeting a 95 percent HAP emissions reduction requirement for open molding processes can alternatively meet a HAP emissions limit. We have also provided alternatives for meeting the limits for continuous lamination/casting and SMC manufacturing operations.

E. What Are the HAP Emissions Factor Equations in Table 1 to Subpart WWWW of Part 63, and How Are They Used in the Final NESHAP?

Table 1 to subpart WWWW of part 63 presents a series of HAP emissions factor equations for open molding and centrifugal casting operations. These equations are specific to the type of resin and gel application and HAP emissions reduction technique used. These equations allow you to calculate HAP emissions factors based on HAP content and application method for each material that you use. These HAP emissions factors are then averaged and compared to limits in the final standards to determine if your open molding and centrifugal casting operations are in compliance.

The HAP emissions factor equations for open molding are identical to HAP emissions equations developed by the composites industry called the Unified Emissions Factors (UEF) as they existed at the time of final rule development. These equations can also be combined with resin and gel coat use to determine HAP emissions rates. It should be noted that although the equations are identical to the UEF at the time the rule is finalized, for purposes of compliance, only the equations actually contained in Table 1 to subpart WWWW of part 63 may be used.

F. When Would I Need To Comply With the Final NESHAP?

We are requiring that all existing sources comply by April 21, 2006. Any source that commenced construction after August 2, 2001, at a site where there were no existing reinforced plastic composite operations is a new source. New affected sources that are now in operation must be in compliance on April 21, 2003. New affected sources that startup after April 21, 2003 must comply upon startup. Existing area sources that increase their HAP emissions or their potential to emit such that they become a major source of HAP must be in compliance within 3 years of the date they become a major source. New area sources that become major sources of HAP must comply upon becoming a major source. All open molding and centrifugal casting operations that comply by meeting a specified HAP emissions limit on a 12-month rolling average will have 1 year from the compliance date to demonstrate compliance.

We are allowing new and existing facilities 3 years to comply from the time their HAP emissions reach or exceed the applicability thresholds which require the installation of add-on controls, if these HAP emissions increases occur after their initial compliance date.

In addition, we have added a one-time exemption for facilities that exceed the 100 tpy threshold due to unusual circumstances. Facilities that apply for this exemption and subsequently exceed the threshold the next year, must comply within 3 years from the time their HAP emissions first exceeded the threshold. Because this is a one-time exemption, an exceedance in any future years would result in a requirement for compliance within 3 years of the subsequent exceedance.

G. What Are the Options for Demonstrating Compliance?

Today's final NESHAP provide several options for compliance for certain operations. We are providing these options to afford industry the flexibility to decide which method is best suited for each particular situation. Operations not listed in this section have only one option for demonstrating compliance.

For open molding and centrifugal casting operations, you determine compliance with the HAP emissions limits by determining HAP emissions factors for the operations at your facility, and comparing your HAP emissions factors to the appropriate HAP emission limits for each open molding and centrifugal casting operation. To determine your HAP emissions factor you may use the HAP emissions factor equations in Table 1 to subpart WWWW, or HAP emissions factors based on facility HAP emissions testing. For open molding operations at existing and new sources, the final rule allows you to choose to comply by meeting the individual HAP emissions limits shown in Table 3 to subpart WWWW of part 63 for each operation at your affected source, or by meeting the weighted average HAP emissions limit for all open molding operations at your affected source. In addition, if you produce parts with any combination of manual resin application, mechanical resin application, filament application, or centrifugal casting operations at your affected source, you can comply using the an alternative method shown in Table 7 to subpart WWWW of part 63. You determine the highest allowable HAP resin for each individual operation from Table 3 to subpart WWWW of part 63. This same resin can then be used in all open molding and centrifugal casting operations as shown in Table 7 to subpart WWWW of part 63.

For open molding and centrifugal casting operations where the rule would require you to meet a percent reduction, you could use an add-on control device to achieve the required reduction, or you may choose to meet a HAP emissions limit that corresponds to that particular operation's percent reduction.

For continuous lamination/casting operations at existing and new sources, we are allowing you to demonstrate that each continuous casting line and each

continuous lamination line meets the appropriate standard in Table 3 to subpart WWWW of part 63, or § 63.5805(b) or (d) of the final rule. Alternatively, you can average all your continuous casting and continuous lamination lines together and demonstrate that they meet the appropriate standard. An additional alternative for sources that emit less than the 100 tpy threshold would be to capture your HAP emissions from your wet-out area in a permanent total enclosure that meets EPA's criteria, as specified in Method 204 of appendix M of 40 CFR part 51, and vent the captured wet-out HAP emissions through a closed vent system to a control device achieving 95 percent reduction of HAP emissions. Under the final rule, these alternatives can be used in combination to demonstrate compliance.

The standards for continuous lamination/casting operations are expressed as a percent reduction of HAP emissions. As an alternative, facilities can elect to meet a HAP emissions limit.

For existing and new pultrusion operations, you can capture and vent your HAP emissions to a control device that achieves the required percent reduction of HAP emissions. For all existing sources and for new sources that emit less than the 100 tpy threshold, you may use a wet-area enclosure with a resin drip collection system, direct die injection or preform injection systems that meet the criteria specified in § 63.5830 of the final rule to meet the 60 percent HAP emissions reduction requirement. For pultrusion machines that produce parts with 1000 or more reinforcements and a cross sectional area of 60 inches or more, you must implement the work practice standards in Table 4 to subpart WWWW of part 63.

For SMC manufacturing operations at new sources that exceed the 100 tpy threshold, we allow facilities to meet a 95 percent HAP emissions reduction requirement, or the HAP emissions limit specified in Table 5 to subpart WWWW of part 63.

H. What Are the Testing and Initial Compliance Requirements?

We are requiring you to conduct an initial performance test using specified EPA test methods on all affected sources which use a control device to achieve compliance. You must test at the inlet and outlet of the control device and using these results, calculate a percent reduction.

We are also requiring you to conduct a design evaluation, as specified by EPA Method 204 of appendix M of 40 CFR part 51, if you use permanent total enclosures to capture HAP emissions. If your enclosure does not meet the requirements for a permanent total enclosure, you must test the enclosure to determine the capture efficiency by EPA Methods 204B through E of appendix M of 40 CFR part 51 or an alternative method that meets the data quality objectives and lower confidence limit approaches contained in 40 CFR part 63, subpart KK. Test runs for EPA Methods 204B through E or alternative test methods must be at least 3 hours.

Prior to the initial performance test, owners and operators of affected sources would be required to install the parameter monitoring equipment to be used to demonstrate compliance with the operating limits. During the initial performance test, the owners and operators would use the parameter monitoring equipment to establish operating parameter limits.

I. What Are the Continuous Compliance Requirements?

If you use an add-on control device, we are requiring that you monitor and record the operating parameters established during the initial performance test, and calculate average operating parameter values averaged over the period of time specified in the final NESHAP to demonstrate continuous compliance with the operating limits.

If you use the HAP emissions equations in Table 1 to subpart WWWW of part 63 to demonstrate that you are maintaining a HAP emissions factor less than or equal to the appropriate HAP emissions limit listed in the final NESHAP, we are requiring that you calculate the HAP emissions factor one time if the resins or gel coats used in the operation remain the same, or if all the resins and gel coats used individually meet the applicable HAP emissions limit. You are required to calculate HAP emissions factors on a 12-month rolling average each month if the resin or gel coat varies between operations or varies over time, and not all resins or gel coats taken individually meet the required HAP emissions limit.

If you are complying with work practice standards, we are requiring that you demonstrate compliance with the work practice standards in the final NESHAP by performing the necessary work practices and by keeping a record certifying that you are in compliance with the work practices.

J. What Are the Notification, Reporting, and Recordkeeping Requirements?

We are requiring that you submit Initial Notification, Notification of Performance Tests, and Notification of Compliance Status reports by the specified dates in the final NESHAP, which may vary depending on whether the affected source is new or existing.

You are also required to submit semiannual compliance reports. If you take action that is inconsistent with your approved startup, shutdown, and malfunction (SSM) plan, then you would need to submit SSM reports within 2 days of starting such action, and within 7 days of ending such action.

We are requiring that you keep a copy of each notification and report, along with supporting documentation for 5 years. Of this time, the 2 most recent years must be on-site. You must keep records related to SSM, records of performance tests, and records for each continuous parameter monitoring system. Under the final rule, if you must comply with the work practice standards, you also need to keep records certifying that you are in compliance with the work practices for 5 years. If you use the HAP emissions factor equations to demonstrate compliance, you must keep all data, assumptions, and calculations used to determine your HAP emissions factors. For new and existing continuous lamination/casting operations, you also must keep the following records when complying with the percent reduction or pound per ton requirements: All data, assumptions, and calculations used to determine the percent reduction or pounds per ton, as applicable; a brief description of the rationale for the assignment of an equation or factor to each formula; all data, assumptions, and calculations used to derive facility-specific HAP emissions estimations and factors; identification and rationale for the worst-case scenario; and documentation that the appropriate regulatory agency has approved all HAP emissions estimation equations and factors.

III. Summary of Environmental, Energy, and Economic Impacts

A. What Facilities Are Affected by the Final NESHAP?

There are approximately 435 existing facilities manufacturing reinforced plastic composites that are major sources and subject to the final NESHAP. The rate of growth for the reinforced plastic composites industry is estimated to be 84 new facilities over the next 5 years.

B. What Are the Air Quality Impacts?

The 1997 baseline HAP emissions from the reinforced plastic composites industry are approximately 18,000 tpy. The final NESHAP will reduce HAP

from existing sources by 7,682 tpy, a reduction of 43 percent.

The final NESHAP will result in small increases in other air pollution emissions from combustion devices that will be installed in the next 5 years to comply with today's final rule. These increases result both from the combustion device directly, and from the electrical generating plants used to generate the electricity necessary to operate the add-on controls and associated air handling equipment. These emissions are estimated to be 2.3 tpy of sulfur oxides (SOx), 3.0 tpy of nitrogen oxides (NO_X), 4.9 tpy of carbon monoxide (CO), and 0.1 tpy of particulate matter (PM) emissions.

C. What Are the Water Quality Impacts?

We estimate that the final NESHAP will have no adverse water quality impacts. We do not expect anyone to comply by using add-on control devices or process modifications that would generate wastewater.

D. What Are the Solid and Hazardous Waste Impacts?

We estimate that the final NESHAP will decrease the amount of solid waste generated by the reinforced plastic composites industry by approximately 2,650 tpy. The decrease in solid waste is directly related to switching to nonatomized resin application equipment (*i.e.,* flowcoaters and resin rollers). Switching to nonatomized resin application equipment results in a decrease in overspray because of a greater transfer efficiency of resin to the part being manufactured. A decrease in resin overspray consequently reduces the amount of waste from disposable floor coverings, cured resin waste, and personal protective equipment (PPE) for workers. Disposable floor coverings are replaced on a periodic basis to prevent resin buildup on the floor. We estimate that solid waste generation of floor coverings will decrease by approximately 620 tpy, and that cured resin solid waste will decrease by approximately 2,030 tpy.

We project that the decreased overspray from nonatomized resin application equipment will result in a decreased usage of PPE, which also consequently reduces the amount of solid waste. When using nonatomized resin application equipment, workers typically wear less PPE than when using atomized spray guns because of the reduced presence of resin aerosols and lower styrene levels in the workplace. Because we did not have information on the many different types of PPE currently used, we did not estimate this decrease in solid waste.

Some facilities that switch from atomized to nonatomized spray guns may have a small increase of hazardous waste from the used nonatomized spray gun cleaning solvents. However, most facilities would not see an increase under the final rule, and the overall impact on the industry will be small relative to the solid waste reductions. Nearly all nonatomized spray guns require resin and catalyst to be mixed inside the gun (internal-mix) and must be flushed when work is stopped for more than a few minutes. External-mix spray guns do not need to be flushed because resin is mixed with catalyst outside the gun. Facilities that switch from external-mix to nonatomized spray guns will use more solvent. Solvent usage should not change at facilities switching from internal-mix spray guns to nonatomized spray guns. The most common flushing solvents are acetone and water-based emulsifiers. Only a couple of ounces of solvent are typically needed to flush the mixing chamber and nozzle of internal-mix spray guns.

We do not have adequate data to predict the potential solvent waste impact from switching to nonatomized spray guns. The magnitude of the impact depends on the type of gun currently used (internal- or external-mix), the frequency of flushing, and the type of solvent used. However, because of the small amount of solvent used, and since most is allowed to evaporate, we believe the overall solvent waste increase will be small compared to the solid waste reductions.

E. What Are the Energy Impacts?

Energy impacts result from the final NESHAP because some facilities will be required to install add-on controls to meet certain HAP emissions limits or percent reduction requirements. We anticipate that these controls will be concentrator/oxidizer systems or thermal oxidizers. These controls increase energy requirements in two ways. First, all reinforced plastic composites facilities must ventilate work areas to maintain worker styrene exposure within acceptable limits. The ventilation systems typically exhaust air directly to the atmosphere. When an add-on control device is added to control HAP emissions, it creates an additional pressure drop for the ventilation system which, in turn, means that more electricity is required to operate system fans and to operate the control device itself. Second, fuel (usually natural gas) is required to supplement the oxidizer combustion process.

We determined that the overall energy demand for operations in the Reinforced Plastic Composites Production source category could increase by 10 million standard cubic feet per year of natural gas, and 0.6 million kilowatt hours of electricity per year as a result of the final rule. We determined this net increase based on the additional energy demand for control devices installed to meet the final standards. No information for comparison is available on the baseline energy consumption for this source category.

F. What Are the Cost Impacts?

We have estimated the industrywide capital costs for HAP emissions control equipment, including equipment such as open container covers, resin bath enclosures, capture systems, and control devices as $12.6 million for the 435 existing sources and $22.8 million for the 84 new sources. The capital costs include the costs to purchase and install the control equipment.

We have estimated the industrywide annual costs of the final rule are $21.5 million per year for the 435 existing sources and $7.7 million for the 84 new sources. Annual costs include fixed annual costs, such as reporting, recordkeeping and capital amortization, and variable annual costs such as natural gas. The estimated average cost of the final rule is $2,800 per ton of HAP emissions reductions for existing sources and $5,560 per ton of HAP emissions reductions for new sources.

G. What Are the Economic Impacts?

We conducted a detailed economic impact analysis to determine the market- and industry-level impacts associated with the final rule. We expect the aggregate price increase for reinforced plastic composites would be only 0.7 percent, or $0.03 per pound, as a result of the final rule. We project that directly affected producers would reduce total production by 1.7 percent, while producers not directly affected would increase their production by 0.7 percent. Markets for reinforced plastic composites used in corrosion-resistant products are expected to be more heavily impacted with price increases of roughly 1.6 percent and reductions in directly affected domestic production of almost 5 percent. The reason for more significant impacts in the corrosion-resistant market is that facilities in this market have higher average per-unit variable compliance costs. Corrosion-resistant product variable compliance costs are $0.13 per pound of product versus an industry average of $0.06 per pound.

In terms of industry impacts, we analyzed impacts for captive producers and merchant producers. Captive

producers make composites for use by another part of their company in a larger product. Merchant producers sell their products on the open market, either to consumers or other businesses.

In our analysis, captive producers of reinforced plastic composites are expected to fully absorb their compliance costs, which is a conservative approach. We assess impacts as if captive producers are viewed as a profit center like a merchant producer but unable to pass on costs. This is done in lieu of an analysis attempting to estimate cost-pass through for the myriad of final products that use reinforced plastics. We assume merchant producers will attempt to pass through costs to their customers.

Through the market impacts described above, the final NESHAP create both gainers and losers within the merchant segment. Some merchant facilities are projected to experience profit increases with the final rule; however, the majority that continue operating are projected to lose profits. The economic impact analysis indicates that 36 out of 301 merchant facilities (12 percent) and 89 out of 466 product lines (19 percent) at these facilities are at risk of closure because of the final NESHAP. These facilities are believed to be small businesses. Note that this number is slightly higher than the estimate of facility closure at proposal, which was 10 percent. This change is not due to any change in stringency of the final rule as applied to small businesses. It is due the reduction in stringency of the final rule for large sources. More information on the measures we have taken to minimize the small business impacts may be found in the Regulatory Flexibility Act discussion in this preamble. Furthermore, the analysis indicates that ten of the 133 captive facilities (7.5 percent) may be at risk of closure if unable to pass on costs to their customers.

Based on the market analysis, the annual social costs of the final rule are projected to be $19.9 million. The social costs are slightly less than the engineering cost estimate of $21.5 million because producers pass on a portion of these costs to consumers through price increases in an effort to reduce their regulatory burden. These costs are distributed across the many consumers and producers of reinforced plastic composites. Directly affected producers, in aggregate, are expected to lose $6.2 million annually in profits, with those not subject to the final NESHAP gaining $18 million. The consumers of reinforced plastic composites are expected to lose $31.7 million due to higher prices and lower consumption levels associated with the final NESHAP. For more information on the economic analysis, consult the final economic impacts analysis document in the docket for this project.

IV. Summary of Changes Since Proposal

A. Above-the-Floor Capture and Control Requirements for Existing Sources

In the proposed rule, existing facilities that are a small business as defined by the Small Business Administration (SBA) regulations at 13 CFR 121.201, and that emitted 250 tpy or more of HAP, or existing facilities that are not a small business and emitted 100 tpy or more of HAP, from the combination of all open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC manufacturing, mixing, and BMC manufacturing operations, were required to reduce the total HAP emissions from these operations by at least 95 percent by weight. In the final rule, this requirement now only applies to centrifugal casting and continuous lamination/casting operations, and the threshold has been changed to 100 tpy for both large and small businesses. This reduced the number of facilities we estimated would have to meet an above-the-floor requirement from 34 to 3, reduced the industry annualized costs of the final NESHAP from $26.0 million per year to $21.5 million per year, and reduced the HAP emissions reduction estimate from 14,500 to 7,700 tpy. In addition, for centrifugal casting, the percent reduction requirement only applies to HAP emissions that are vented from the closed centrifugal casting mold. It does not apply to HAP emissions that occur from other operations such as pouring or spraying resin into a centrifugal casting mold while it is open.

B. Replacing the Point Value Equations With HAP Emissions Factor Equations Based on the Unified Emissions Factors, and Changes to Centrifugal Casting HAP Emissions Factors

In the proposed rule, we used a group of equations called point value equations to determine surrogate HAP emissions factors. These factors were then used to rank existing facilities to determine existing source MACT floors for open molding operations. However, we specified that the point value equations were not considered HAP emissions factors and, therefore, should not be used for HAP emissions reporting. This resulted in the potential for facilities to have to use two different sets of equations for HAP emissions reporting and MACT compliance determinations.

In the final rule, we have eliminated the point value equations and replaced them with HAP emissions factor equations that are identical to HAP emissions factor equations that are being used in this industry for HAP emissions calculations, called the Unified Emissions Factors. Therefore, facilities now will have the same equations for MACT compliance determinations and HAP emissions calculations for HAP emissions reports.

For centrifugal casting, we have retained the HAP emissions factor equation in the proposed rule for sources that blow heated air through the mold during spinning and curing. For other centrifugal casters, we have created a new HAP emissions factor equation based on more recent information. This new HAP emissions factor significantly changes the numerical value of the floor (pounds of HAP emissions per ton of resin used) from the value in the proposed rule. However, it did not change the floor facility or the level of control a facility would need to meet the floor.

These new HAP emissions factor equations were also used to re-rank existing facilities to establish the floor level of control for existing sources. Though this change did result in different floor values in lb/ton, it did not change the level of control actually required to meet the floor. However, as discussed below, our reanalysis did result in changes to some floors for other reasons.

C. MACT Floors for Existing Sources

There are several changes to the MACT floors for existing sources, and for new sources that emit less than 100 tpy for the combination of all open molding, centrifugal casting, pultrusion, SMC and BMC manufacturing, mixing, and continuous lamination/casting operations. These changes were a result of facilities submitting additional data that indicated our original analysis of their facility HAP emissions factors were in error, or out of date.

For noncorrosion-resistant resins applied using mechanical application, the proposed rule had different floors for filled and unfilled resins. The reason for separating filled and unfilled resins was that at the time of proposal, nonatomized resin application techniques were not available for filled resins. Since proposal, filled resins now can be applied using nonatomized spray. Therefore, we now have combined the two process/product groupings into one. Also, several facilities in this process/product

grouping provided revised data. As a result, the floor level of control for noncorrosion-resistant resins using mechanical application is a HAP emissions limit of 87 lb/ton. This limit requires a resin with no more than 38.4 percent HAP applied using nonatomized mechanical resin application techniques. At proposal, facilities could use a 42.8 percent resin (filled) or a 38 percent HAP (unfilled) resin and nonatomized mechanical resin application.

For mechanical corrosion-resistant resin application, the revised floor is a HAP emissions limit of 112 lb/ton. This limit requires a resin with no more that 46.2 percent HAP and nonatomized mechanical resin application. At proposal, a resin HAP content of up to 48.3 percent was allowed if nonatomized mechanical resin application was used.

For manual application of tooling resin, the revised floor is 157 lb/ton. This allows a resin HAP content of 45.9 percent or less. At proposal, the maximum allowable HAP content was 39.9 percent.

For tooling gel coat the revised floor is 437 lb/ton. This limits gel coat HAP content to 40 percent of less. At proposal, the limit was 38 percent or less.

For SMC manufacturing, the work practices required in the proposed rule were use of nylon film, folding the edges of the film, and covering the doctor box. In the final rule, the requirements are a covered resin transport system to the doctor box and the use of nylon-containing film.

For pultrusion operations producing parts with 1000 or more reinforcements and a cross sectional area of 60 inches or more, we have changed the floor from 60 percent HAP emissions reduction to a work practice of air flow management.

In addition, we established three new floors for speciality resins and gel coats. These are shrinkage-controlled resins, fire retardant gel coats, and high performance gel coats. These speciality products were identified from comments received on the proposed rule. The new floors are shown in Table 3 to subpart WWWW of part 63.

D. Cleaning

In the proposed rule, we required that cleaning materials contain no HAP unless cleaning cured resin from application equipment. In the final rule, we have modified that requirement to allow HAP-containing cleaners to be used in closed systems such as closed tanks, and resin and gel coat delivery systems.

E. Compression/Injection Molding

In the proposed rule, we required that only one resin charge be uncovered at a time. We have clarified this requirement for the final rule to reflect that one charge may actually have to fill multiple molds. Also, we added a provision to allow the use of automated loaders and slitters. We also clarified that paste added to the mold and in-mold surface coatings are considered part of the closed molding operation.

F. Averaging Provisions

In the proposed rule, we allowed facilities to average across all open molding operations and all centrifugal casting operations. The average was based on a 12-month rolling average calculated monthly. In determining compliance, the average for each month was calculated and then the monthly averages were averaged over a 12-month period. In the final rule, the 12-month average is based on a weighted HAP emissions factor calculated from total resin and gel coat use over the 12-month period. This method will provide a more accurate value for the actual HAP emissions, in lb/ton, that the facility produced in the previous 12 months.

In the proposed rule, we did not allow pultrusion lines to average; each pultrusion machine had to meet the 60 percent reduction requirement for existing sources. In the final rule, we allow facilities to over control some lines, and under control (or leave uncontrolled) others, as long as the average reduction for all lines combined is 60 percent weighted by resin use. Also, we are allowing facilities to average the time that wet area enclosure covers are open across lines.

G. Pultrusion Compliance Options

In the proposed rule, we allowed pultrusion operations to use direct die injection as a compliance alternative to meet the 95 percent capture and control requirement. In the final rule, we are removing direct die injection as a compliance alternative because, based on industry data, it does not achieve 95 percent HAP emissions reduction. We still allow direct die injection as a compliance option to meet the 60 percent HAP emissions reduction requirement. We have also added another compliance option, preform injection, to meet a 60 percent HAP emissions reduction. We have also added another compliance option, airflow management work practices, for pultrusion machines that produce large parts as set forth in Table 4 to subpart WWWW of part 63.

H. Applicability

We made a number of changes dealing with rule applicability. First, we expanded the list of specific operations that are part of the source category, but are not subject to any control, reporting, or recordkeeping requirements. These operations include application of mold sealing and release agents, mold stripping and cleaning, repair of previously manufactured parts that is unrelated to collocated manufacturing operations, personal activities that are not part of the manufacturing operations (such as hobby shops on military bases), prepreg materials as defined in § 63.5935 of the final rule, non-gel coat surface coatings, repair or production materials that do not contain resin or gel coat, and research and development (R&D) operations as defined in section 112(c)(7) of the CAA. In addition, we exempted any facility that uses less than 1.2 tpy of resin and gel coat, and R&D facilities and operations at manufacturing facilities. The rationale for these changes is discussed in the responses to major comments section.

I. Potential Overlap With the Boat Manufacturing NESHAP (40 CFR Part 63, Subpart VVVV)

In the proposed rule, we were silent concerning situations where a facility could be subject to both the Boat Manufacturing NESHAP, 40 CFR part 63, subpart VVVV, and the Reinforced Plastic Composites NESHAP. In today's final rule, we have added § 63.5787 to clarify which subpart applies. In general, if your facility makes boat hulls and decks, or molds for boat hulls and decks, then 40 CFR part 63, subpart VVVV, applies to you. If 40 CFR part 63, subpart VVVV, does not apply to you, and you meet the applicability criteria in § 63.5785 of the final rule, then the Reinforced Plastics Composites NESHAP apply. If you are subject to 40 CFR part 63, subpart VVVV, and also make reinforced plastic composite parts that are not used in boat manufacture, then both 40 CFR part 63, subpart VVVV, and the Reinforced Plastic Composites NESHAP may apply. See § 63.5787 in the final NESHAP for more detail.

J. Determination of Resin and Gel Coat HAP Content

In the proposed rule, we stated that facilities could determine resin and gel coat HAP content using material safety data sheets (MSDS) or resin specification sheets. In the final rule, we have included § 63.5797, which describes in more detail how to determine resin and gel coat HAP

content. This new section also clarifies that only organic HAP are included in determining HAP content. The reason is that we have no data to indicate that any other HAP, such as inorganic HAP potentially present in pigments or resin solids, are emitted from the production process. We also now include a provision to account for normal manufacturing tolerances that occur in resin and gel coat manufacture.

K. New Source MACT Floors

In the proposed rule, the MACT floor for all open molding and pultrusion operations located at new sources above a 100 tpy HAP emission threshold was a 95 percent weight reduction in HAP emissions. In the final rule, we have subcategorized open molding and pultrusion operations by part size. For open molding and pultrusion operations that produce large parts the floor level of control is now the same as for existing sources. Large parts are defined in § 63.5805 (d)(2). All other new source MACT floors are unchanged.

V. Summary of Responses to Major Comments

This section presents a summary of significant public comments and responses. A summary of all the public comments that were received and our responses to those comments can be found in Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52).

Comment: We received numerous comments on the above-the-floor requirements for existing sources. First, commenters stated that EPA had significantly underestimated the costs of add-on controls. They stated that industry estimates were, in some cases, ten times higher than our estimates. They stated that we had overestimated the HAP concentrations in the exhaust streams, underestimated the exhaust flows, and omitted costs for continuous monitors.

Second, the commenters claimed that we had not established that 95 percent capture and control was technically feasible for this diverse industry, and that only two facilities out of 433 actually had achieved the 100 percent capture that is required to meet an overall capture and control level of 95 percent. They also stated that these two facilities were atypical of the industry as a whole because they also had collocated coating operations that were also routed to the same control device. They further stated that the criteria of EPA Method 204 of appendix M of 40 CFR part 51 are not feasible for most facilities in this industry. For these reasons, the commenters recommended that the above-the-floor requirement be removed.

Response: As a result of these comments, we reviewed the costing methodology for the above-the-floor requirements in the proposed rule and made changes to our costing methodology for add-on controls. Some of the major changes were lowering the default inlet concentration to the control device from 100 parts per million volume (ppmv) to 50 ppmv, revising the fan power equation, and using 2,000 operating hours per year, rather than 6,000 hours per year, as a default value in the absence of actual yearly operating information.

Based on these new costs, the cost per ton of HAP emissions reduction of the above-the-floor requirement significantly increased for most process/product groupings. As a result, we have removed the above-the-floor control requirements for all process/product groupings except centrifugal casting and continuous lamination/casting. It should be noted that the comments discussed above were based on open molding operations. We received no comments specifically on the above-the-floor requirements as applied to centrifugal casting and continuous lamination/casting.

Comment: One commenter opposed allowing control requirements for new sources emitting less than 100 tpy to be the same as those for existing sources because a new site has the opportunity to design and incorporate pollution prevention and control strategies that would be cost-prohibitive for existing sources to implement. The commenter recommended that EPA consider more stringent requirements for new sources, including smaller sources, through generally available control technology or other approaches that would not be overly burdensome.

Another commenter adds that EPA's analysis indicates that the best controlled facilities have reduced HAP by only 95 percent, and 95 percent is most likely the maximum extent of historic regulatory requirements. The commenter notes that EPA looked at the experience of existing facilities to achieve greater than 95 percent control through add-on control in conjunction with pollution prevention and did not find facilities achieving greater control than that. While the assessment may be correct for what EPA looked at, the commenter states that examining past experience that lacks regulatory drivers for greater control is not the same as examining the present and future potential for control opportunities. The commenter believes that the proposal dismisses the potential for these two control techniques (add-on control and pollution prevention) to be applied to new sources.

Response: We agree that new facilities can more easily incorporate pollution prevention and add-on controls. This is the reason we set the new source floor at 95 percent control for most new sources that emit over 100 tpy, and not at the same level as existing source floors.

Facilities that have incorporated add-on controls tend to be larger facilities. New facilities in this industry can be small operations that operate a limited number of hours and still be major sources. These small sources cannot reliably meet 95 percent capture and control given their limited operating schedules and their potential lack of on-site technical expertise. Therefore, we are not requiring a source emitting less than 100 tpy to meet the 95 percent capture and control level.

We examined whether or not we could specify some other level of control for small sources, but we could not determine what would be an appropriate level of capture and control below 95 percent. We also considered basing new source MACT floors for facilities that emit less then 100 tpy on the single best facility that incorporated pollution prevention. However, as discussed in the preamble of the proposed rule, we believed that using one facility that had the lowest HAP content resins and gel coats was unworkable, unless we could show that all new plants would build the same products as the plants that had the lowest HAP content resins and gel coats.

Given this, we had to determine a threshold value above which 95 percent capture and control is feasible for all new plants, given the diversity of this industry. We selected 100 tpy of actual HAP emissions because above this level facilities tend to operate more hours per year and are better equipped to maintain capture and control systems. Also, at the time we proposed the rule, the smallest facility in the open molding process/product grouping that was permitted at 95 percent capture and control emitted approximately 100 tpy. Therefore, we chose this number as the threshold at which 95 percent capture and control is required.

This was not the only approach we could have taken to subcategorize new sources, nor is 100 tpy the only threshold we could have chosen. For example, we could have subcategorized by annual hours of operation. However, depending on the threshold we set, this could result in large, new HAP emissions sources avoiding the 95 percent capture and control

requirements simply by building a larger facility and reducing hours of operation. By tying the requirement directly to HAP emissions, we believe we have taken the most logical approach from an environmental standpoint and an enforcement standpoint. Also, the 100 tpy threshold is a reasonable choice that means that all new large facilities in most of the process/product groupings will have to meet the most stringent HAP emissions control levels.

Comment: We received numerous comments on the new source MACT floor for facilities with open molding, pultrusion, SMC manufacturing, mixing, and BMC manufacturing that emit 100 tpy or more of HAP from these operations. The commenters stated that the 95 percent capture and control requirements of the floor were technically infeasible and too costly. They also stated that 95 percent capture and control does not represent the best HAP emissions control approach when all environmental impacts, such as increases in emissions of criteria pollutant and greenhouse gases, are considered. The commenters note that the CAA states that the best controlled similar source must be the basis of the new source MACT floor; therefore, EPA is only authorized to apply the 95 percent capture and control requirements to facilities that are similar. The sources cited by EPA make uniformly-sized parts in high volume, employ mechanical resin application, and operate three shifts a day. However, they differ from other facilities in the industry. One of the sources is primarily a metal fabrication operation and sends significant amounts of emissions from a painting operation to the control device, making an unusually rich combustion stream. They also claimed that the facility had not been proven to meet the requirements of EPA Method 204 of appendix M of 40 CFR part 51. The other facility employs an unusual molding operation, and the ability of this facility to actually meet the 95 percent capture and control requirement is open to question. Neither of these sources are similar to any other composites open molding operation.

Response: Our available information continues to support that the appropriate new source floor for facilities that emit 100 tpy or more of combined HAP from their open molding, pultrusion, SMC manufacturing, BMC manufacturing, mixing, centrifugal casting, continuous lamination, and continuous casting operations is 95 percent capture and control for several reasons. First, the term ''best control'' means best control of HAP emissions. The only other control techniques mentioned by the commenters were the pollution-prevention techniques that make up the existing source floors. The commenters claim that when other environmental impacts of add-on controls are considered, pollution-prevention control techniques are actually superior. They provided examples that showed HAP emissions reductions from pollution-prevention techniques for some facilities of up to approximately 70 percent; however, the actual HAP emissions reductions a facility will achieve based on pollution-prevention techniques will be highly site specific. Also, the highest pollution-prevention HAP emissions reduction examples assume facilities could reduce HAP emissions by enhanced process monitoring, which would reduce materials used. The HAP emissions reductions based on materials-use reductions assumes facilities are not currently using materials as efficiently as they could. There are no data to support this assumption, and the potential for HAP emissions reduction of this type could vary widely. The second example presented by one commenter assumes facilities would use nonatomized gel coat application. However, the same commenter has stated emphatically that nonatomized gel coat application cannot be used at every facility. Therefore, this example cannot be considered to fairly represent the HAP emissions reductions achievable for the industry as a whole.

Our overall estimate of the HAP emissions reduction that would occur with only pollution-prevention techniques is approximately 41 percent for open molding, compared to the significantly higher 95 percent HAP emissions reductions possible with capture and control. The CAA indicates that ''best control'' in the context of setting floors is the control that achieves the best HAP emissions reduction. Based on this, 95 percent capture and control represents best control for this industry.

Even if we were to consider other environmental impacts of capture and control, 95 percent control would still be considered best control. Calculations provided by one commenter indicates that a total of only 0.15 tons of criteria pollutants are generated per ton of styrene reduction; however, this number appears to be based on one of the three actual operating facilities using add-on controls shown in the commenter's example. Data from another facility using a concentrator/oxidizer system in the same report showed criteria pollutant emissions of 0.06 tons per ton of styrene emissions reduction. Our estimate at proposal was that, on average, this figure is closer to 0.04 tons of criteria pollutants per ton of HAP emissions reduction. Regardless of which number is used, the amount of HAP emissions reduction is significantly higher than any resulting criteria pollutant emissions. The commenters also cite greenhouse gas effects. They state that 30 tons of greenhouse gases are produced for every ton of styrene emissions reduction.

We reviewed the information that formed the basis of the estimate of greenhouse gas estimates. Based on our analysis, we believe that the estimate of 30 tons of greenhouse gases are produced for every ton of styrene emissions reduction is an overestimate because it is based on examples where the HAP emissions reduction varies between 77 to 84 percent. The final rule will require 95 percent HAP emissions reduction. Also, we believe the air flows used in the examples provided by the commenter are higher than will be required for new facilities. Higher air flows result in increased use of natural gas and higher greenhouse gas emissions. We believe a more accurate number would be approximately 20 tons of greenhouse gases produced for every ton of styrene emissions reduction.

Second, regardless of which number is the most accurate, any contribution of the final rule to global greenhouse gas emissions is insignificant. The total greenhouse gas emissions in the United States exceed 6 trillion tons from fossil fuel combustion alone. However, the difference between emissions of styrene from a facility controlled to the 95 percent level and one controlled using only pollution prevention is significant to the populations living near an affected facility.

The commenters also stated that the facilities that formed the basis of the new source floor are not ''similar sources.'' We disagree because there are actually three sources within this source category that meet the criteria to set a 95 percent capture and control floor. The commenters point out that three is a small number compared to the 433 facilities in the database at proposal. However, the CAA requires the new source floor to be based on the single best performing similar source. Therefore, only one source is sufficient to set a new source floor as long as we determine it is similar. The commenters stated that the source setting the floors operates three shifts (they shut down on weekends). However, we subcategorized new sources by annual HAP emissions. The reason was that larger sources are more likely to operate more than one shift. Also, since this floor only applies

to new sources, the facility can be designed to meet the necessary production rate with three shift operation if the operator desires to minimize control device startups and shutdowns.

The commenters stated that in two cases, the floor facilities have collocated surface coating operations. Our evaluation of these facilities was based only on the reinforced plastic composites portion of the facility. During site visits to these facilities, we determined that these facilities were required to apply 95 percent capture and control to all major processes due to State regulations. That requirement would apply regardless of whether or not the facility had collocated surface coating operations. Also, the presence of the surface coating operations does not result in a more concentrated exhaust stream compared to facilities without surface coating operations. Thus, there is no technical basis to say these facilities are not similar based on the presence of surface coating operations.

We also reviewed the commenters claim that the facilities that set the new source floor do not actually meet the requirements of EPA Method 204 of appendix M of 40 CFR part 51. Part of that claim was based on the fact that the floor facilities had doors in the PTE that were opened to move parts and materials in and out of the PTE.

One criteria of EPA Method 204 of appendix M of 40 CFR part 51 is as follows: ''All access doors and windows that are not treated as natural draft openings shall be closed during routine operation of the process''. This criteria is not intended to require that these doors be closed at all times. It means that doors must be closed any time that you are not actually moving parts or equipment through them. Therefore, the fact that the floor facilities open doors to move parts in and out of the PTE does not mean they do not meet the requirements of EPA Method 204.

In addition, we reviewed the compliance determinations for two of the floor facilities. Our review did not reveal any conditions that would indicate that the requirements of EPA Method 204 of appendix M of 40 CFR part 51 are not being met.

Comment: The commenters stated that the facilities that manufacture large parts using open molding or pultrusion are not similar to the floor facilities that are the basis of the capture and control requirements for the new source floors. They stated that the facilities used to set the 95 percent capture and control requirement only manufacture small parts and, therefore, should not be used to set a capture and control floor requirement for facilities making large parts. They also stated that achieving 100 percent capture is not feasible for large parts sources in these process groups. Though EPA had cited facilities that coated large parts in permanent total enclosures (PTE), coating operations cannot be considered similar to the manufacture of reinforced plastic composites. They suggested that any part with any dimension that exceeds 12 feet be considered a large part and be exempt from capture and control requirements.

Response: After reviewing the comments and available data, we have determined that the facilities currently achieving 95 percent capture and control are not similar to sources producing large parts. At proposal, we noted that we had not identified any facilities in the reinforced plastic composites industry where processes producing large parts, such as storage tanks and swimming pools, have applied 100 percent efficient capture systems, but stated our belief that such PTE were technically feasible based on large PTE in other industries. We reviewed available data on the facilities in our database and found that facilities producing parts over a certain size presented different technical issues from facilities that have successfully incorporated 95 percent capture and control. As noted in the preamble to the proposed rule, one of these facilities has a PTE large enough to produce large parts. However, the air flows and HAP concentrations exiting the PTE at this facility are not the same as would be expected from a facility using a similar sized PTE to capture and control emissions from large parts production.

We also noted in the preamble to the proposed rule that surface coating operations for very large parts (as large as ocean going ships) had successfully applied PTE. However, we agree that coating operations and reinforced plastic composites operations are not similar sources. Reinforced plastic composites production typically requires more workers per part due to the necessity to both apply and roll-out the resin. Also, large parts are continuously laminated until completion rather than coated in sections.

This difference in sources, while applicable to evaluating floors based on capture and control, does not exist in the case of floors based on pollution-prevention technologies such as the use of low-HAP materials and nonatomized resin application. For that reason, we did not differentiate between large and small parts when setting floors based on pollution-prevention control techniques for either new or existing sources.

Because we determined that capture and control was not the appropriate floor for large parts manufacture, the floors for these specific operations are now the same as the floors for existing operation, which are emission limits based on the use of low-HAP materials and nonatomized resin application.

However, we do not agree with the commenter's suggested definition of large parts, because it would exempt parts from capture and control requirements where those requirements have already been demonstrated. The largest part produced at a facility where 95 percent capture and control is demonstrated has a volume of 250 cubic feet. If this part were placed in a rectangular six-sided box, the largest side of the box would be 50 square feet. Therefore we chose these criteria as the definition of a large part for open molding. For pultrusion, the largest part produced by a facility with 95 percent capture and control was 2 inches high, 10 inches wide, and had approximately 350 reinforcements. Therefore, we choose these criteria as the definition for large pultruded parts.

Comment: Several commenters stated that capture and control requirements would make it difficult for facilities to meet Occupational Safety and Health Administration (OSHA) worker health and safety requirements. Process enclosures at current facilities are designed and operated to provide safe and efficient production of composite products. The primary purpose of enclosures in this industry is to remove contaminated air from the workplace to achieve OSHA requirements for limiting occupational exposures. Enclosures must also allow enough cool air to enter the workplace so that workers are not subject to excessive heat stress. One commenter provided a study that stated that if process enclosure exhaust flows were reduced to increase exhaust concentrations being routed to the control device, worker exposure to contaminants and heat would be increased to unacceptable levels.

Response: The use of PTE for capture of HAP emissions should not result in increased worker exposure to contaminants or heat stress if appropriate precautions are taken. As previously noted, one solution is to design the spray enclosures based on meeting worker exposure requirements, and then enclosing the entire lamination area in a PTE. The facilities currently using PTE do not exceed OSHA exposure guidelines. Experience in the printing and publishing industry shows that use of PTE, in many cases, results

in reduced worker exposure to both contaminants and heat stress. In high heat and humidity areas, it is likely that some type of air cooling will be required during summer. However, this issue is present even without the requirement for capture and control.

Comment: Five commenters stated that the limit of tooling gel coats (38 percent HAP) is not achievable. One commenter claimed that we set this limit based on one infrequently used product that is not representative of the industry as a whole. The commenter's products represent 70 percent of the tooling gel coat market and the maximum HAP contents range from 42 to 50 percent HAP. Their lower HAP gel coat has not gained a significant market acceptance. They have performed 2 years of research and development efforts aimed at developing a lower-HAP gel coat that would meet the requirements of the proposed rule and have been unsuccessful. They stated we had not independently tested the product on which the standard is based, so there has been no demonstration of the product's quality or suitability for broad use in the industry. The commenter also stated that setting the standard at 38 percent would have the effect of encouraging manufacturers of tooling gel coats to use para methyl styrene, which is not regulated as a HAP, as a substitute. Also, lower-HAP gel coats may be less durable than products currently on the market, which would result in reduced mold life. Therefore, more molds would have to be built to produce the same amount of product. This would result in the standard actually causing a HAP emissions increase. This commenter requested a tooling gel coat HAP limit of 52 percent HAP for clear gel coats and 49 percent for pigmented gel coats.

A second commenter asked that EPA consider tooling gel coats as speciality gel coats exempt from HAP limits similar to the speciality coating exemption contained in the Aerospace Coating MACT standards (40 CFR part 63, subpart GG). This commenter stated there is a strong possibility they will discontinue manufacturing tooling gel coats if the standard is not changed.

Another commenter stated that we must allow higher HAP limits for tooling applications in vacuum resin infusion, compression, and resin transfer molding composite tool applications, where high exotherms and heated tools are required. Durability of the mold surface is essential to the longevity of the mold. Thermal stability is a key element that requires higher-HAP content. Repeated high exotherms during the cure cycles can greatly reduce the life of low-HAP gel coats. Greater porosity found in the low-HAP materials can also create mold surface problems. Ironically, these are closed molding processes, which result in much lower HAP emissions and employee exposures than open molding processes. Closed molding facilities will not be able to offset the small amounts of high-HAP tooling gel coat used in tool production with large amounts of low-HAP general purpose open molding resins using facility averaging. The commenter recommends that the final MACT standards allow up to 48 percent HAP content for pigmented tooling gel coats.

Response: We have received additional data since proposal. Based on these data, we increased the floor for tooling gel coats to 40 percent. We obtained very little data from industry on tooling gel coats in the original data requests and in additional efforts to obtain additional tooling gel coat data. To supplement the limited data, we looked at the tooling gel coat data used in developing the Boat Manufacturing MACT (40 CFR part 63, subpart VVVV). This is a reasonable approach because gel coat manufacturers stated that they sold the same tooling gel coats in both the reinforced plastic composites and boat manufacturing industries. The revised HAP content limit of 40 percent is the same as the Boat Manufacturing NESHAP HAP content limit for tooling gel coats.

We considered the issue raised by the commenters that a low limit in tooling gel coats would actually increase HAP emissions. While we agree that more frequent replacement of inferior molds would lead to increased HAP emissions, the factual data do not indicate that a 40 percent HAP content limit results in inferior molds. Facilities in the field (both reinforced plastic composite manufacturers and boat manufacturers) are building molds with 40 percent HAP tooling gel coat. We have no data to indicate that these facilities are producing lower quality molds than average, and none of the commenters has been able to provide objective data to substantiate that reduced mold life is inevitable with low-HAP gel coats. The information provided was based on assumed reduction in mold life. Also, the fact that one of the commenters covers 70 percent of the market is irrelevant, because MACT floors are set based on best control, not market share. In the absence of objective data that the facilities that use low-HAP tooling gel coats produce inferior molds with shorter mold lives compared to the rest of the industry, the MACT floor must be set based on the best performing facilities. In this case, that results in a floor of 40 percent HAP.

Comment: One commenter stated that although clear cultured marble gel coats have been formulated with HAP levels as low as 40 percent, the tolerance for thermal shock and water resistance are lowered with lower-HAP levels. According to the commenter, 48 percent HAP clear coat is required for manufacturers to maintain current warranties and many have switched back to the high-HAP clear gel coats due to the poor performance of the lower-HAP clear gel coats. The commenter suggests that ''clear gel coats for cultured marble'' should be defined as ''those used for products subject to ANSI Z124 testing'' and the rule should limit the HAP content of these materials to 48 percent. A second commenter also stated that a 48 percent HAP content is necessary to meet desired gel coat performance. The commenter claims that the proposed limit of 44 percent does not take into account the entire spectrum of uses and does not satisfy the requirements of their applications.

Response: We are bound by the statutory requirements of the CAA to set MACT floors based on the average of the best performing sources as illustrated in the available data. In the absence of specific data to support the request, we have no basis to change the floor.

In developing different process product grouping for gel coats, we did consider the different performance characteristics of different types of gel coat. These types were tooling gel coat, clear gel coat, pigmented gel coat (white/off white), pigmented gel coat (all colors except white/off white), fire retardant gel coat, and corrosion resistant/high strength gel coat. Based on information provided by industry, we determined that these different gel coat types had sufficiently different characteristics that they should be considered separately for floor determinations. However, we do not have data to demonstrate that it would be appropriate to further subcategorize clear gel coats based on each gel coat's performance characteristics.

Comment: One commenter states that only the white/off-white and some pastels can meet a floor of 30 percent HAP because of the titanium dioxide and inert filler loading. Most solid colors require a HAP content of 38 to 40 percent. Higher performance pigmented gel coats that require high molecular weights would, therefore, need a higher monomer content to achieve workable viscosities and would probably no longer be available to the market place.

Response: White/off-white gel coats will be defined as those containing 10

percent or more by weight titanium dioxide. As proposed, these gel coats will be subject to a HAP limit of 30 percent by weight, and all other pigmented gel coats will be subject to a HAP limit of 37 percent by weight.

At the time we developed the proposed rule, we had no data on pigmented gel coats other than white/off-white and some reds. Based on industry comments, we split pigmented gel coat into two groupings, white/off-white and other colors due to the fact that white/off-white gel coats contain titanium dioxide, which is a heavy pigment, while other colors do not. At the time we created this new grouping, we requested data from the industry concerning the HAP contents of pigmented gel coats. The industry representatives indicated that these gel coats typically have 37 percent HAP. Because non-white pigmented gel coats comprise a very small part of the total industry, we elected to accept the 37 percent number rather than attempt to gather additional data. The commenter provided no data to support their request. In the absence of new data, we have no basis to change this floor.

Comment: Two commenters request that the category of fire retardant gel coats be exempt from HAP limits. Both commenters note that fire retardant gel coats are used in manufacturing transportation parts, building products, trains, airplane parts, and theaters. One commenter stated that these are all critical areas of applications and require various Underwriter Laboratory (UL), American Society for Testing and Materials (ASTM), and Fire Rating Certifications. It was suggested that fire retardant gel coats be defined as ''those used for products for which low-flame/low-smoke resin is used.''

Response: We have added a process/product grouping for fire retardant gel coats. These gel coats are defined as gel coats used in low-flame spread/low-smoke product applications. We have established a HAP emissions limit of 854 lb/ton which is equivalent to gel coats with a maximum HAP content of 60 percent using atomized application.

Comment: Four commenters stated that we need to establish a separate process/product grouping for corrosion-resistant gel coats. The commenters stated that gel coats used in specific corrosion protection applications must meet the same requirements as corrosion-resistant resin. One commenter added that gel coats requiring chemical resistance to a wide range of chemicals including acids, bases, and solvents are often based on the resins similar to those that make up the structural part of the composite and provide the necessary corrosion resistance. For this reason, the commenters believe that the HAP limitation for corrosion-resistant gel coats should be 48 percent, the same as it was in the proposed rule for lamination resins used to make corrosion-resistant composites. It was suggested that ''corrosion-resistant gel coats'' be defined as ''those used for products made with corrosion-resistant resin'' and that the rule limit the HAP content of these materials to 48 percent.

Response: We agree that there are technical limitations for corrosion-resistant applications that warrant a separate limit for corrosion-resistant gel coats, similar to the separate limits established for other specialty resins and coatings.

In the final rule, we established a separate HAP content limit of 48 percent for corrosion-resistant gel coats and defined them as ''those gel coats used to manufacture products made from corrosion-resistant resin.'' We believe 48 percent HAP is the appropriate number because the highest HAP content level allowed in all the corrosion-resistant resin process/product groupings is 48 percent.

Comment: Several commenters stated that we need an additional process/product grouping for low-shrink resins. These resins have special shrinkage control properties that are unique and cannot be obtained in any other way. These resins were not identified when EPA surveyed the industry. One commenter stated that a specialty process group is needed for high molecular weight, low-shrink resins used in wind turbine blade manufacturing. The resin currently in use is 42 percent HAP unfilled. The facility would be unable to gain any relief by facility averaging because the facility predominantly uses zero-HAP epoxy resin, rather than a low-HAP production resin. Commenters requested that EPA create a subcategory for these resins with a maximum HAP level of 48 to 52 percent.

Response: Our understanding is that these low-shrink resins are highly filled resins with special chemistry that allows them to cure at room temperature with significantly less shrinkage than a typical resin. Given the unique properties of this resin, we agree that a separate process/product grouping is appropriate. The resin manufacturer indicated that the maximum HAP content of the resin is 50 percent. Therefore, we have set HAP emissions limits for shrinkage-controlled resins that allow up to 50 percent HAP. This specialty resin costs significantly more than other resins, which provides a deterrent for facilities using the resin where its special properties are not necessary.

Comment: One commenter believes higher HAP limits are needed for the filament application of corrosion-resistant products. The commenter claims that the rule, as proposed, will eliminate use of certain types of corrosion-resistant resins that impart required properties to certain applications. The commenter noted that the proposed limit for corrosion-resistant filament application resins was lower than for noncorrosion-resistant filament application resins. The commenter believes that the HAP emissions limit for all categories of filament application should be 178 lb/ton, and stated that this change will have insignificant impact on EPA's total HAP emissions reductions target, with the difference in HAP emissions reductions being 3 tpy.

Another commenter states that the proposed MACT of 42 percent HAP cannot be met with an isophthalic resin without some compromise to the physical properties of the cured resin. The commenter requested EPA to consider the 48 percent HAP limit found in South Coast Air Quality Management District (SCAQMD) Rule 1162.

Response: While we acknowledge the commenters concerns, we developed the floor for this process/product grouping in the same manner as floors for other process/product groupings in open molding. We gathered data from industry and ranked the performance of the facilities in the corrosion-resistant process group and set the MACT floor based on the average of the best 12 percent, as required by law.

Though we are not changing the floor for filament application, we are retaining a provision included in the proposed rule that allows facilities to use the same resin in multiple processes. The rationale for this provision is, while our floor development ranking procedure is correct, we also realize it does not account for the fact that some facilities use multiple operations to produce components of the final product, and the resins used in the subcomponents must be compatible. This provision will allow most facilities the flexibility to use the necessary level of HAP in corrosion-resistant applications because mechanical operations have a higher-HAP content limit.

Comment: One commenter recommended that the model point value for corrosion-resistant manual resin application be changed from 124 to 190 to reflect the use of the same

percent HAP used in mechanical resin application. The commenter notes that the facility that sets the floor using a 40 percent HAP resin is not typical of a true corrosion-resistant (CR) company because that facility uses only manual application, while true CR companies use both manual and mechanical application techniques. A second commenter requested that the MACT floor for manual corrosion-resistant resin be changed so that it is the same as the floor for mechanical corrosion-resistant resin.

Response: As discussed in the previous response, the floor is based on the data available for this process/product grouping. However, as with filament application, the provision allowing facilities to use the same resin in multiple operations should allow enough flexibility for facilities to meet rule requirements, but still produce products with the necessary properties. Therefore, facilities that produce corrosion-resistant and noncorrosion-resistant products using both manual and mechanical resin application will be able to use the same resin in both operations.

Comment: One commenter stated that the proposed MACT of 35.5 percent HAP for noncorrosion-resistant centrifugal casting would result in a resin too high in viscosity, which may create air release problems. The commenter states that lower molecular weight resins would cause some limitations in physical property requirements.

Response: We received new data that changed the floor for centrifugal casting to 37.5 percent HAP. With less than 30 facilities in the process group for which we have data, the MACT floor must represent the average performance of the top five facilities. We have no data to support raising the floor any further.

Comment: One commenter stated that they believe that new operations should be subject to new source MACT even if they are added to an existing source. The commenter understands that there are cases in which the new equipment may be incorporated within an existing manufacturing line, making it difficult to employ separate controls (*e.g.*, if all the equipment is controlled at a later end point). The commenter suggests, however, that separate and more specific provisions can be included in the rule to govern such cases.

Response: This comment is only applicable to new source MACT for specified processes that emit over 100 tpy, because below that level, new source and existing source MACT are the same. We believe that, for this particular industry, the ability of a facility to incorporate the capture and control requirements of new source MACT for larger facilities is closely related to the structure housing the process, because the size and shape of the existing building affects the layout of the production line. Even if there are significant process changes, this by itself would not indicate that the building housing the process has been changed, thereby making retrofit of capture and control systems unfairly difficult compared to a new greenfield facility. We believe that attempting to develop a detailed set of requirements that could cover every situation would be unrealistic.

We agree that this provision may result in small facilities being able to grow significantly without becoming new sources. However, it should be noted that in the final rule, we have overridden the portion of the general provisions in 40 CFR part 63 which states that facilities that move are still considered existing. Because we believe the cost and technical feasibility of capture and control are closely related to the building housing the process, we believe that a facility that moves should be considered a new source because they can plan for capture and control prior to erecting or selecting a new building. Therefore, facilities that would be considered existing sources under the general provisions will be considered to be new sources under the final rule. Therefore, in this aspect, the final NESHAP are more stringent.

Comment: Several commenters requested clarification in this rule on which operations at a reinforced plastics composites facility and which operations at a boat building facility will be covered by this rule and which will be covered by 40 CFR part 63, subpart VVVV (Boat Manufacturing NESHAP).

It was noted that neither the preamble nor the proposed rule explicitly states whether this rule applies to manufacturing of boats or boat components and requested that language be added to the final rule clarifying that this rule does not apply to any processes or operations subject to 40 CFR part 63, subpart VVVV. One commenter stated that boat building plants routinely produce non-boat parts and presumed that such facilities will be required to meet the composites rule when producing composite parts that are not associated with the manufacture of boats. The commenter also points out that some composite plants produce boat parts that are then used to build boats, such as when producing barge covers that are related to the manufacture of river barges.

Response: We have added § 63.5787 to the final rule to specifically address this issue. A facility must produce boat hulls and decks, or molds for boat hulls and decks, to be covered by the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV). If it produces reinforced plastic composites, as defined in the final rule, and is not covered by the Boat Manufacturing NESHAP, then it is covered by the Reinforced Plastic Composites NESHAP, regardless of the final use of the parts.

In the case where a facility is subject to the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV), but the facility also makes parts that are not a component of their boats, then the non-boat parts are covered by the Reinforced Plastic Composites NESHAP. However, only resins and gel coats actually used to make parts covered by the Reinforced Plastic Composites NESHAP are considered in determining compliance.

In addition, in order to simplify compliance, we are allowing facilities that are subject to the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV) and that also make parts subject to the Reinforced Plastic Composites NESHAP, to elect to make all their manufacturing operations subject to the Boat Manufacturing NESHAP if they can demonstrate, through the appropriate HAP emissions calculations, that this will not result in any HAP emissions increases over what would occur if they complied with the Reinforced Plastic Composites NESHAP for non-boat part production. We also clarify that HAP emissions from activities covered by the Boat Manufacturing NESHAP are not considered when calculating HAP emissions thresholds to determine the applicability of add-on controls.

Comment: One commenter requested that the rule explain what happens in instances where the 100 tpy threshold is exceeded even by a little, temporarily. Does this require that add-on controls be installed?

Response: It is our intent that unusual circumstances result in a facility having to add and operate add-on controls. We have included clarifying language in the final rule that allows a one-time exemption to the 95 percent capture and control requirements for facilities that were below the 100 tpy threshold and exceed the threshold due to unusual circumstances. This exemption allows facilities to average annual HAP emissions over 3 years to determine if they exceed the threshold. However, facilities are also required to document the unusual circumstances that caused the exceedance, and why they expect to remain below the threshold in the

future. If they exceed the threshold a second time, then the exemption is immediately withdrawn and they must comply with the 95 percent capture and control requirements within 3 years from when they originally exceeded the threshold.

Comment: Two commenters requested clarification of several issues related to repair work. They are assuming the proposed rule is intended to cover manufacturing operations only. Repair processes conducted in a manufacturing facility are also covered because they are likely to use the same materials. If the processes conducted are re-manufacturing, refurbishment, repair, or maintenance, it will be considered repair for the final NESHAP. The exception would be if the repair is a part which frequently needs replacement and is made in an assembly-line type process. They also asked that since there is no de-minimums level, if any manufacturing is done, would it be covered? They noted that at some of the commenter's facilities, some minor manufacturing may occur. The repair work that may also be done at the same facility is not related to the manufacturing processes (and would be using different resin and reinforcing materials.) The commenter believes that as the rule is currently written, both the manufacturing and repair operations would be covered. The commenter does not believe that is EPA's intent and asked if we could develop language to correct that.

One commenter stated that definitions of repair and manufacturing should be added to clarify the types of repair and manufacturing covered by the rule. The preamble and rule should be consistent in stating that the facilities that only repair composites are not affected. The commenter also feels that repair operations collocated with unrelated manufacturing operations should not be covered either. In a related comment, several commenters asked that a low-use cutoff be established so that facilities that use small amounts of resin and gel coat are not subject to the rule, especially since those uses may be incidental to a completely different manufacturing operation.

Response: The final rule has been written to make explicit what repair operations are and are not covered. Specifically, facilities at which only repair occurs are not covered by the final rule. In addition, repair of previously manufactured reinforced plastic composites unrelated to the reinforced plastic composites manufactured at the facility are also not covered by the final rule. Repair processes on parts that are manufactured at the same location are covered by the final rule. In addition, we have added a low-use cutoff exemption to the final rule. We reviewed our entire database and determined that we had no data for facilities that use less than 1.2 tpy of resin and gel coat combined. Therefore, we believe that, in the absence of any available data, facilities that use less than 1.2 tpy of resin and gel coat to produce reinforced plastic composite products or components should be exempt from the final rule.

Comment: Many commenters requested that the rule incorporate an exemption for R&D facilities, and for R&D operations collocated with manufacturing operations. The materials used in R&D operation may be significantly different from those used in manufacturing.

Response: We have written the final rule to exempt R&D facilities and R&D operations. The definition of R&D is the same as contained in section 112(c)(7) of the CAA.

Comment: Several commenters stated that they believe the EPA cannot set different standards for small and large businesses based on the size of the business, rather than the size of the source. They believe that because the CAA clearly identifies ''major source'' by the level of HAP emissions, MACT floors must depend on the average HAP emissions reductions by the best sources without regard to cost factors of business size. They stated that this distinction was unfair because two facilities that emit the same amount of HAP would potentially have different requirements solely on the basis of their ownership. The commenter also believes that EPA did not adequately support the determination that large businesses have better access to capital than small businesses. They stated that this is not necessarily true.

Response: Based on the revised cost analysis, we have determined that it is no longer necessary to distinguish between small and large businesses. However, we still believe the use of different thresholds in the proposed rule was appropriate because this distinction only applied to the above-the-floor regulatory option. The CAA specifically states that when we go above the floor, we must consider costs.

Comment: One commenter states that the small business threshold of 250 tpy should apply to both existing and new sources. New capital funding to build a new facility would require due diligence on the part of the lending institution. The new facility would have to generate enough cash flow to meet the added debt load. Adding a capture and control system to the debt load would significantly reduce the cash flow available to pay back the lender's note on a new facility because the capture and control system is a non-value added asset. The lending institution would discern this and deny the loan.

Response: For new sources, the proposed (and final standard) is the MACT floor, not an above-the-floor option. We do not have the flexibility to create small and large business distinctions when the standard is set at the MACT floor. Therefore, the final rule for new sources does not incorporate a small and large business distinction.

Comment: Several commenters stated that a method to establish percent reduction and HAP emissions factors is needed to foster the development of new products and equipment to serve the affected industry. They recommended that EPA establish a protocol to allow the smooth introduction of equipment, products, and other technologies into the final rule.

Response: Allowing facilities to use site-specific HAP emissions factors, and the procedure in the general provisions in 40 CFR part 63, subpart A, that allows facilities to demonstrate equivalent HAP emissions reductions, adequately address the incorporation of new HAP emissions reduction technologies. However, we have added § 63.5798 to the final rule that discusses how to obtain approval for new technologies.

Comment: Two commenters requested that EPA change the averaging provisions to allow a facility that changes some processes to non-styrene containing resins to average these resins with the styrene-containing resins to demonstrate compliance.

Response: We do not believe it would be appropriate to allow the use of non-styrene containing resins and gel coats to be included in the calculation of compliance. The MACT floors were developed only considering resins and gel coats that contain styrene (and other organic HAP, such as MMA) used at the facilities in our database. We did not consider non-styrene resins and gel coats used at our database facilities. Given the basis for developing the standards, it is inconsistent to allow non-styrene containing resins and gel coats to be used in the compliance calculations. Therefore, we have not added this request to the final rule.

Comment: Numerous commenters recommended replacing the point value system with the Composite Manufacturers Association (CFA) UEF

table. The composites industry is already using these HAP emissions factors to calculate annual HAP emissions. It would simplify reporting and recordkeeping if one set of HAP emissions factor equations were used. Another commenter stated that if EPA uses the UEF, all HAP should be treated as styrene because this is how EPA developed the MACT floors. They noted that these factors are used by industry for toxic release inventory reporting and obtaining permits. According to the commenters, use of these factors for MACT will reduce the paperwork burden for small manufacturers.

Response: We reviewed the UEF and the basis for their development. Based on this review, we believe that these equations are acceptable for estimating both HAP emissions factors for compliance purposes and HAP emissions.

As a result, in the final rule we have written the HAP emissions factor equations in Table 1 to subpart WWWW of part 63 to be identical to their equivalent UEF equations. Therefore, facilities will have one set of identical factors for both compliance and HAP emissions estimation purposes.

Because of this change, it was necessary to recalculate the floor values by recalculating HAP emissions factors using the new HAP emissions factor equations for the facilities in our database and reranking the facilities based on the new calculations. Therefore, both the numerical values of the floors (lb/ton) and the equations used to calculate compliance changed. Note the floors themselves did not change significantly because when we reranked facilities using the new HAP emissions factors, the ranking order did not change with two exceptions. In those cases, the new equations caused two facilities to switch places and changed the floor slightly. However, these changes were minor compared to the changes that resulted from other comments we received and additional data we gathered.

In addition, we have added to the final rule equations for the nonatomized gel coat application and for the mechanical atomized controlled spraying of resins. We have incorporated the latter UEF equation in the final rule so that it is applicable only where the controlled spray is achieved through automated or robotic, not manual, spraying.

Finally, we are incorporating only the UEF equations developed for styrene and not those developed for MMA. We are doing this because the data analysis forming the basis of the standards assumed all organic HAP to be styrene. This is a reasonable assumption as the amount of MMA used is a very small percentage of the total HAP monomer used.

Comment: One commenter noted that the proposed rule does not provide for manual application of gel coats. Many gel coats are applied manually as exterior coatings when the major component part is made. The rule should require that for HAP emissions calculations from manual application, gel coat should be considered as a resin with the stated HAP content and the appropriate point value equation should be used. Companies where manual gel coat application is less than 2 percent of the total gel coat usage should be exempt from maintaining records of manual application.

Response: We agree with the commenter that the proposed rule did not provide an equation to estimate HAP emissions from the manual application of gel coats and that the rule needs to address this. In the final rule, we have addressed this issue by allowing two options. First, the facility may elect to simply include manually-applied gel coat with spray gel coat application for compliance and HAP emissions estimation purposes. Alternatively, they can elect to treat the gel coat as spray for compliance purposes, but use the manual resin application HAP emissions factor to estimate HAP emissions.

We believe the changes discussed above are sufficient to simplify reporting and recordkeeping for manual gel coat application. Therefore, we have not added an exemption for maintaining records for manual gel coat application.

Comment: Several commenters requested that sources be allowed to use HAP emissions factors in approved title V permits to estimate HAP emissions. It was noted that the use of such factors will reduce the administrative burden for sources and regulators and will likely improve HAP emissions estimates. One commenter suggested that such factors also be allowed to be used for compliance determinations.

Response: We agree with this comment and believe that § 63.5798(a)(1) and (2) of the final rule already allow for the use of facility-specific HAP emissions factors. Section 63.5798(a)(1) states, in part, that ''you may use any organic HAP emissions factor approved by us such as factors from the Compilation of Air Pollutant Emissions Factors, Volume I: Stationary Point and Area Sources (AP–42).'' Section 63.5798(a)(1) was not intended to limit organic HAP emissions factors only to the AP–42. Paragraph (a)(2) of § 63.5789 allows the development of facility-specific organic HAP emissions factors through performance testing. If a facility has facility-specific factors that have been approved for use in title V operating permits, then those factors can be used to determine whether or not the facility is a major source under section 112 of the CAA. In addition, a facility can use facility-specific factors for comparison against applicable HAP emissions limits. We have written the language in § 63.5798 of the final rule to clarify the use of such facility-specific factors and have added the provision that such factors must be supported by test data.

Comment: One commenter notes that the alternative point values in Table 5 to subpart WWWW of part 63 do not provide a realistic alternative to 95 percent capture and control. In an example calculation for 35 percent styrene resin in open molding, the point value calculation is equivalent to 96 percent control, which is more stringent than the add-on control requirement.

Response: While the values may not appear realistic for some facilities, Table 5 to subpart WWWW of part 63 does present the opportunity to meet the final standards using alternative means. We believe that the values in Table 5 to subpart WWWW of part 63 provide incentive to continue to pursue lower-HAP resins and gel coats and other pollution-prevention opportunities and that even if only one facility can use the values, then their inclusion is worthwhile. For these reasons, we have retained Table 5 to subpart WWWW of part 63. However, we have made minor modifications to this table. For process/product groupings where there is an operating facility that currently meets the 95 percent control requirement, we changed the value in Table 5 to subpart WWWW of part 63 to reflect the highest actual calculated HAP emissions factors for operating facilities.

Comment: One commenter stated that the weighted average point values should be calculated as a weighted average of resin used. The commenter pointed out that the equation in the current proposal gives equal weight to each month instead of each quantity of resin or gel coat processed. Another commenter asked for clarification on how the ''weighted average floor'' is calculated.

Response: We agree with the commenter that 12-month rolling average point values should be calculated using a weighted average based on the amount of resins, rather than using an average based on monthly values, as was proposed. Therefore, the final rule incorporates the commenters' suggestion. Also, we have changed the

terminology for the averaging calculations. We now use the term ''emissions factor'' when discussing values calculated using actual resin and gel coat HAP contents, and ''emissions limit'' when discussing average values calculated from the required floor limits. This change should clarify how to calculate the weighted average floor.

Comment: Several commenters asked that EPA include a test method to determine the effectiveness of vapor suppressants. They suggested that the CFA-developed vapor suppressant test method be used.

Response: We agree with the commenter that the final rule should incorporate a test method applicable to vapor suppressants, which are effective at reducing HAP emissions for many resin applications. The effectiveness of vapor suppressants varies depending on the resin and the application technique used. Thus, a single effectiveness value cannot be assigned. The final rule, therefore, incorporates a test method to determine the effectiveness of vapor suppressants for facility-specific applications. This test method is being published as appendix A to subpart WWWW of 40 CFR part 63.

Comment: One commenter states that the proposed rule is vague or silent on key issues including continuous monitoring of the preconcentrator control performance. The commenter states that the question of the practical long-term efficiency of the preconcentrator system is particularly disturbing because the proposed rule is silent on the issue of compliance assurance. Unfortunately, compliance assurance will present three problems: no available parametric measure will work to monitor absorber efficiency; continuous or semi-continuous flame ionization detectors (FID) are the only practical alternative, but are unreliable; and automated FID equipment is very expensive and prone to periods of malfunction.

The commenter also states that the only feasible available continuous emissions monitor (CEM) system that can measure styrene is an automated sampling device based on an equivalent FID sensor as described in EPA Method 25A of appendix A–7 to 40 CFR part 60 that has an annual cost of $78,200 per year. The additional cost of this necessary compliance monitoring equipment was not included in the EPA cost analysis.

Response: We have reviewed the information on those facilities using add-on control devices with carbon adsorbers within the reinforced plastic composites industry and have found none that are using FID. These facilities are able to demonstrate compliance with 95 percent reduction. Therefore, we do not believe it is necessary to require use of FID under the final rule and have not included the cost of such devices in our cost analysis.

Comment: One commenter notes that the requirements for sources to determine the HAP content should be the same as those in the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV). The commenter points out that the boat rule allows sources to use information from the supplier or manufacturer and requires the use of the upper limit of a range if a range is provided and allows use of supplier information as long as a measured value does not exceed the provided value by more than 2 percentage points. The commenter notes that suppliers provide many of the same resins and gel coats to boat manufacturers and composites manufacturers.

Response: We agree with the commenter and the final rule has been written in line with the HAP content determination provisions found in the Boat Manufacturing NESHAP, which in part allow up to a plus or minus 2 percent allowance.

Comment: One commenter stated that the rule should allow composites manufacturers to change compliance options and should provide guidance on notification and record keeping requirements if affected sources need to switch compliance options.

Response: We agree with the commenter and have included language in the final rule making it clear that changes in the selected compliance option are allowed.

Comment: One commenter opposed capture and control for pultrusion sources based on worker safety. The commenter notes that the EPA analysis assumes an inlet concentration of 100 ppmv, but their measured concentrations are about 12 ppmv. At that concentration, according to the commenter, capture and control is not viable. The commenter claims that efforts to increase the inlet concentration lead to OSHA and industrial hygiene concerns and that any changes increasing the concentration to over 20 ppmv would exceed American Congress of Governmental Industrial Hygienists recommended maximums. Further, the commenter states that levels approaching 50 ppmv require installation of engineering controls (ventilation or HAP prevention) and exposure to these levels would meet with serious union objections. The commenter notes that these considerations result in higher capture and control costs. The commenter requests that health related issues be fully addressed before the proposed above-the-floor capture and control is implemented. Another commenter stated that pultrusion products requiring constant attention would have to have an enclosure large enough for the operator to be inside, and this would increase health risks due to styrene exposures.

Response: As noted in previous responses, the above-the-floor requirement for 95 percent HAP emissions reduction is no longer required for pultrusion operations at existing sources and, therefore, capture and control is no longer an issue for existing facilities. We also note that our revised cost analysis now uses a target maximum inlet concentration of 50 ppmv rather than 100 ppmv. The 50 ppmv target is the same as the current OSHA 8-hour time weighted average limit for styrene.

We have not changed our position on capture and control for new sources, except, as discussed above, with respect to large parts made by pultrusion (and open molding) sources. New facilities can be designed with the appropriate measures in place to avoid worker exposure in excess of OSHA requirements. As previously discussed, facilities that have incorporated capture and control meet current OSHA requirements for worker safety.

Comment: Several commenters requested that preform injection, a technique that applies resin to the reinforcements in a closed box, be an allowed control technology because it is a more viable and readily attainable control technology than either add-on control or direct-die injection. One commenter stated that preform injection should qualify for a 90 percent HAP emissions reduction, and the CFA proposed definition and requirements should be used as the criteria for preform injection. A second commenter stated that although it falls short of 95 percent reduction, reduction rates of 90 percent are attainable and an excellent trade off given the applicability, capital requirements, and operating costs associated with preform injection.

Response: We agree with the commenters that preform injection is a viable control technology for reducing HAP emissions from pultrusion operations. Preform injection is included in the final rule as an option for meeting the 60 percent HAP emissions reduction requirement for existing pultrusion sources. However, as stated by the commenters, preform injection (and direct die injection) do

not meet the 95 percent HAP emissions reduction requirement, which is the new source MACT floor. The CAA does not allow us to be less stringent than the floor. Therefore, we cannot allow preform injection, or direct die injection, to be a compliance option to meet the 95 percent HAP emissions reduction requirement. We also included a definition for preform injection in the final rule that is based on the commenter's suggested language.

Comment: Several commenters requested a 12-month averaging period for compliance for pultrusion. The commenters stated that pultruders should be able to use a combination of preform injection, wet area enclosures, direct die injection, and ''no control'' to meet the 60 percent HAP emissions reduction requirement for existing sources. The commenters pointed out that HAP emissions credits could be earned to offset the processing of products with an open bath and ''no control.'' According to the commenters, without averaging, facilities will be forced to discontinue manufacturing products that require constant open access (for example, certain complex profiles) or to shut down any processing line when there is an extended period of processing adjustments (which require open access to the line).

Response: We agree that averaging will add some flexibility for you to comply with the final rule without increasing HAP emissions. Therefore, for existing sources we have included an averaging option. For purposes of averaging, we have assigned wet area enclosures a 60 percent HAP emissions reduction, and direct die injection and preform injection a 90 percent HAP emissions reduction.

Comment: Several commenters requested that the 60 percent emission reduction requirement for existing sources, which is based in the use of a wet area enclosure, be replaced with a work practice standard of air flow management. They stated it was impossible to apply wet area enclosures to these large parts because of accessibility concerns. Large parts require almost constant access because they are extremely complex. The other control options for existing sources, preform injection and direct die injection, have also not been demonstrated on these large parts. They suggested a definition for large parts, which was parts with 1,000 or more reinforcements and at least a 60 square inch cross sectional area.

Response: We agree that wet area enclosures, which form the basis of the existing source floor, are not feasible for large parts as defined in the comment. Therefore, we developed a separate existing source MACT floor for large pultruded parts. A review of the available data indicates air flow management (as described in more detail in Table 4 to subpart WWWW of part 63) has been used to control emissions from this process group. Therefore, the existing source MACT floor is air flow management. The final rule has been written to reflect the new floor.

Comment: Many commenters requested that the limit on wet enclosure open times of 30 minutes per shift be changed to 90 minutes per day to allow for necessary repairs, start-ups, and shutdowns.

Response: We evaluated the commenters' request. The facilities that actually set the floor for pultrusion are limited to 30 minutes per 8 hour shift or 45 minutes per 12 hour shift. In addition, the facility may average over all pultrusion lines. We have included averaging provisions across lines in the final rule. We have also allowed a facility to have the doors and covers open 90 minutes per day providing the machine is operated three 8-hour shifts or two 12-hour shifts.

Comment: Three commenters claimed that the height restriction on wet area enclosures is not practical because it does not allow room above the highest part to make adjustments to the process or equipment. According to the commenters, the actual height of the wet area enclosure has no impact on HAP emissions because the puller window is the controlling factor, and styrene emissions will remain near the bath without air flow. The commenters, therefore, requested that the restriction be removed.

Response: We have no data to suggest that limiting the height of the enclosure affects the amount of HAP emissions reduction. Therefore, we did not include the height restrictions on the wet area enclosures in the final rule.

Comment: Commenters requested that capture and control not be required for sources engaged in SMC manufacturing. The commenter stated that EPA's proposal for control is based on one source and, according to the commenter, that source has found that they cannot operate the SMC operation and comply with EPA Method 204 of appendix M of 40 CFR part 51.

A second commenter stated that their SMC operation is permitted by Ohio EPA as a PTE with all HAP emissions vented to a thermal oxidizer. They have found it expensive to maintain the PTE and control device and may be required to install additional monitors at great expense.

Response: For existing sources, the final rule does not require capture and control for SMC manufacturing. For new sources, however, the floor is 95 percent reduction and we do not have the flexibility to change the floor. Most of the comments raised by the commenters relate to the cost of PTE and thermal oxidizers. However, costs may not be considered in setting the floor. Additionally, the problems with compliance noted by one commenter do not, in themselves, indicate that new sources cannot be designed and operated to meet the 95 percent control requirement. For example, the facility states that they must open a large overhead door to operate their second SMC machine. In a new facility, the plant layout can be designed where large doors are not required to be continually open. Therefore, the final rule retains the requirement of 95 percent capture and control for SMC manufacturing at new sources that exceed the 100 tpy of HAP emissions threshold.

Comment: One commenter noted that an alternative to meeting the 95 percent HAP emissions reduction requirement is provided for some operations and requests that an alternate HAP emissions limit be provided for SMC manufacturing. An alternative HAP emissions limit allows SMC manufacturers to utilize pollution-prevention efforts that have already been implemented and encourages the use of future pollution-prevention efforts.

Response: For SMC manufacturing, we have incorporated a HAP emissions limit of 2.4 lb/ton as a compliance alternative to the 95 percent control requirement in the final rule.

Comment: A number of commenters expressed concerns about the floor level of control for SMC manufacturing that is based on several work practices. They stated that the requirement to cover doctor boxes should be deleted because the boxes have to be open for machine operators to monitor paste levels. They also mentioned that folding the edges of the SMC had proved to create problems for some facilities that had tried the practice. Finally, they stated that the requirement to enclose the SMC in nylon film should actually say nylon-containing film.

Response: We evaluated the basis for the MACT floor by reviewing all of the data available prior to proposal and contained in the public comment letters. On the basis of this review, we discovered that the MACT floor at proposal did not accurately reflect the actual work practices currently being used. Therefore, we changed the floor to

for both new and existing sources to cover or enclose the resin transport system up to the doctor box and use nylon-containing film to enclose the SMC. Based on the practices at the best controlled similar source, these work practices also apply to new sources that are above the 100 tpy threshold.

Comment: Several commenters requested that the requirement for ''no visible gaps in mixer covers'' be revised to allow reasonable and necessary openings. In general, they stated that mixing vessels must have some opening or vents to allow air to enter or leave the vessel when materials are added or removed, or when the contained material expands or contracts due to changes in temperature. Commenters also noted necessary clearance for mixing shafts and other instrumentation are essential and suggested allowing a gap of one inch. An additional commenter stated that they have several holding tanks that are continuously agitated to prevent settling. They requested that we add clarifying language to the definition of mixers to exclude tanks that are only agitated to prevent settling.

Response: Based on our review of the available data on the current industry control on mixing tanks, we found that the proposed rule is more stringent than the floor and that to allow some visible gaps around shafts, etc., is consistent with the data available to set the floor. Therefore, we have written the final rule to allow no more than one inch of visible gap around mixing shafts and any required instrumentation.

With regard to the request to exempt tanks that are agitated only to prevent settling, concern was that the mixing shafts required clearance. Because we have added a provision to allow up to a one inch clearance around the agitator shafts, this concern has been addressed and the suggested exemption for these specific types of mixers is not warranted. Therefore, the final rule does not include an exemption for tanks that agitate only to prevent settling.

Comment: Several commenters requested that the rule allow active venting under three conditions: when adding filler; when using nitrogen blanketing; and prior to opening a mixer. Several commenters stated that when powders are added to mixing tanks, vent gases are directed to a dust collector to protect employees. One commenter stated that you cannot capture dust without actively venting. The commenter suggests that the proposed rule allow active venting as part of the material addition process. Two commenters actively vent covered mixers at very low flow through a dust collector. The active flow results from nitrogen flowing through the air space for safety reasons (to prevent vapor buildup). Based on stack test results, HAP emissions under these conditions were found to be very low (0.000292 lb styrene/lb styrene available). For these reasons, active venting for safety reasons, using an inert gas purge, and at low flow, should be allowed for covered mixers. Another commenter stated that some mixing operations use nitrogen blanketing for safety (to prevent formation of flammable atmospheres). These sources have an incentive to limit use of nitrogen blanketing because of cost; so, HAP emissions will be negligible. Two commenters also requested that the rule allow venting just before adding materials to clear out vapors prior to opening covers and to allow venting just after adding powders to capture residual dust in the vapor space. One commenter also asked that the term ''active venting'' be defined in the rule.

Response: We believe that most HAP emissions that result from mixing operations occur when active mixing is taking place. Also, based on the data used to set the MACT floor, the facilities that responded that mixers have no active venting meant that the mixer was covered and not vented during mixing. As a result, we have written the rule requirement to read ''close any mixer vents when actual mixing is occurring, except that venting is allowed during addition of materials, or as necessary prior to adding materials or opening the cover for safety.'' Because we have removed the term ''active venting,'' no definition of this term is required.

Comment: One commenter believes that covers should be required instead of add-on control for larger mixing operations. According to the commenter, covers can reduce HAP emissions by 84.8 percent to 96 percent. The commenter then maintains that the incremental HAP emissions reduction from oxidation cannot justify the cost and energy use of control when compared to covers. The commenter notes that there are some facilities in EPA's database that use add-on controls for mixing. However, according to the commenter, the control in all cases is incidental to the use of the add-on control for other operations in the facility. Therefore, the commenter believes that add-on control is not the best control for mixing, and the final rule should require covers instead of add-on controls for all mixing operations.

Response: The reasons for why HAP emissions are being controlled is usually not considered in the setting of MACT standards. Further, we disagree with the commenter's characterization of the control of mixing HAP emissions as ''incidental.'' We do not agree that the data provided support the claim of 85 to 96 percent control using covers. Therefore, we have not written the rule as requested by the commenter. New sources that exceed the 100 tpy HAP emissions threshold will still have to cover the mixing tanks and control their HAP emissions from mixing by 95 percent, which is the new source floor level of control.

Comment: Two commenters suggested that the definition of compression molding be changed to include a process where resin paste is added to the reinforcement at the press and to include the use of in-mold coating (IMC). According to the commenters, the resin paste process is similar to the use of SMC and BMC because there is no exposure of HAP-containing material, except where the charge is being prepared and placed in the mold. The controls for this process are the same as those available for SMC and BMC (*i.e.* limiting the quantity of exposed materials to that which is required for one press cycle). In-mold coating is a process where HAP-containing materials are mixed with catalyst and then injected into the mold cavity after the molding cycle has started. The IMC reduces the need for post-mold coating (painting) operations. The controls available for IMC are the same as those generally available for mixing operations.

Response: We have modified the definition of closed molding to include these processes.

Comment: Several commenters requested that the work practice standard requiring closed molding operations to uncover, unwrap, or expose only one charge per mold cycle per machine be revised so that a charge is defined as the amount of materials required to charge the mold(s) for each machine cycle. Some machines have more than one mold, and limiting the amount of material would cause a bottleneck in production capacity. One commenter added that the rule should allow multiple charges to be loaded into the hopper, provided the hopper is kept covered between loading operations and that the unlimited use of slitting machines to unwrap, cut, and prepare charges should be permitted, provided that the charges are then covered or placed in a closed container prior to use at the press.

Response: We agree that where multiple charges are required for a single mold cycle, the rule should allow them to be prepared at the same time

and held in a closed container prior to use. Therefore, we have written the final rule to define ''charge'' per the commenter's suggestion and to require that multiple charges be kept covered, as for single charges, until used. We have also written the final rule to allow the use of hoppers, robotic loaders, and slitters.

Comment: Many commenters noted in the proposed rule that polymer casting mixing operations in containers of 21 gallons or less may be open while active mixing occurs and requested that this exemption be increased. The commenters note that many are using 350 lb containers, which is equivalent to 21.6 gallons. According to the commenters, the mixing process uses an electric mixer and requires frequent manual scraping of the sides, and a requirement to cover the mixer would present a productivity disadvantage.

Response: Changing the volume exemption from 21 to 21.6 gallons would be consistent with the intent of the proposed exemption. The surface area of exempt mixers is a more important parameter because it is directly related to the amount of HAP emissions that would occur. Therefore, we have included this exemption in the final rule but have changed the exemption parameter to 500 square inches of surface area. This change should allow the 21.6 gallon mixers, commonly used in this industry, to be exempt from the requirement to cover the mixer.

Comment: One commenter noted that worker safety, fire prevention, and product quality requirements necessitate limited active venting of HAP-containing materials storage vessels, covered mixers, and material conveyance enclosures. Some facilities store resins in bulk tanks with passive atmospheric venting. Problems arise from resin contact with the water vapor in the atmosphere. Polymerization occurs on side walls, vents, and transfer pipes. Vents, especially conservation vents, can plug, threatening the tank's structural integrity. Nitrogen blanketing is used by some facilities to solve these problems. Nitrogen blanketing is also used to inert the head space in bulk HAP-containing materials storage tanks for fire prevention.

Another commenter requested clarifying language to allow passive vents for bulk HAP-containing materials storage tanks. The vents are small to allow for breathing of the tanks as they are filled and emptied. These vents are required under OSHA to prevent pressure build-up and to reduce the chances of explosions and major leaks or spills. The annual breathing losses from all eight of this commenter's tanks are less than 1 tpy. A third commenter suggested that the rule be changed to allow venting from HAP-containing materials storage vessels.

Response: We did not intend to prohibit bulk HAP-containing materials storage tanks from venting to the atmosphere for safety. The final rule has been written to clarify this. However, it is not our intent to allow venting from all HAP-containing materials storage vessels because the safety concerns commenters raised are limited to bulk HAP-containing materials storage vessels. Thus, the final rule prohibits venting from HAP-containing materials storage vessels other than bulk storage tanks.

Comment: One commenter noted that the proposed rule would require that HAP-containing materials storage containers be kept closed or covered, except when adding or removing materials. The commenter claims this provision is not workable.

Response: We believe that covering HAP-containing materials storage containers is a simple and cost-effective way to reduce styrene evaporation. We also note that over 200 facilities that reported information on storage stated that HAP-containing materials storage containers are covered or closed. This provision has been written in the final rule.

Comment: Several commenters requested that HAP cleaners be allowed when used in a closed system or covered tank. The reasons were that aggressive cleaners were necessary due to the presence of cured resin on some surfaces, and that it was important to use a cleaner that would not cause contamination problems. They stated that HAP emissions from these closed systems were minimal, and in many cases, the styrene used for cleaning was recycled to the process as a raw material.

Response: The proposed rule allowed the use of HAP cleaners to remove cured resin from application equipment because of the difficulty associated with removing the cured resin. One commenter in particular identified other equipment used in the process on which cured resin may occur. We note, as the commenters have, that styrene is the main HAP used in the reinforced plastic composites industry and can be reused in the process without contaminating the end products. Therefore, we believe that the commenters' requests are reasonable and have written the final rule to expand the definition of ''application equipment'' and to allow the use of HAP-containing cleaners in closed systems (including covered tanks).

VI. Relationship of the Final NESHAP to Other NESHAP and the CAA Operating Permits Program

A. National Emissions Standards for Closed Vent Systems, Control Devices, Recovery Devices, and Routing to a Fuel Gas System or a Process (40 CFR Part 63, Subpart SS)

If you use an add-on control device(s) to control HAP emissions, you will need to comply with certain provisions in 40 CFR part 63, subpart SS, for add-on controls. The standards in subpart SS, cited by the final Reinforced Plastic Composites NESHAP, are applicable to most sources using an add-on control device. The final Reinforced Plastic Composites NESHAP cite these sections in subpart SS rather than repeating them in the regulatory text.

B. NESHAP for Boat Manufacturing (40 CFR Part 63, Subpart VVVV)

The final NESHAP for Boat Manufacturing were published on August 22, 2001 (66 FR 44218). There is a potential overlap between facilities that produce reinforced plastic composites if they also produce boat hulls, boat decks, or molds for boat hulls and decks. We have included provisions in the Reinforced Plastic Composites NESHAP to clarify where the Reinforced Plastic Composites NESHAP apply, and where the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV) apply.

C. NESHAP for Plastic Parts and Products (Surface Coating)

There are currently NESHAP under development for proposal that will regulate coating of plastic parts and products. The Small Business Advocacy Review Panel, convened for the Reinforced Plastic Composites NESHAP, recommended that we consider the interaction of the Reinforced Plastic Composites NESHAP and the Plastic Parts and Products NESHAP. The Plastic Parts and Products NESHAP may potentially affect facilities that produce reinforced plastic parts and then apply a coating to the finished parts. We have coordinated with this project and have determined that there should be no overlap (*i.e.,* specific operations covered by today's final NESHAP should not also be covered in the Plastic Parts and Products NESHAP). We have not determined any requirements of today's final NESHAP that would overlap, conflict, or cause a duplication of effort.

D. Operating Permit Program

Under the operating permit program codified at 40 CFR part 70 and 40 CFR part 71, all major sources subject to standards under section 111 or 112 of the CAA must obtain an operating permit (*See* §§ 70.3(a)(1) and 71.3(a)(1)). Therefore, all major sources subject to the final NESHAP must obtain an operating permit.

Some reinforced plastic composites production facilities may be major sources based solely on their potential to emit, even though their actual HAP emissions are below the major source level. These facilities may choose to obtain a federally enforceable limit on their potential to emit so that they are no longer considered major sources subject to the final NESHAP. Sources that opt to limit their potential to emit (*e.g.,* limits on operating hours or amount of material used) are referred to by the EPA as ''synthetic area'' sources. To become a synthetic area source, you must contact your local permitting authority to obtain an operating permit with the appropriate operating limits. These limits must be obtained prior to the compliance date for existing sources, which is April 21, 2006. These operating limits will then be federally enforceable under 40 CFR 70.6(b).

VII. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether this regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review 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 obligations of recipients thereof; or

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

Pursuant to the terms of Executive Order 12866, OMB notified EPA at proposal that it considered this rulemaking a ''significant regulatory action'' within the meaning of the Executive Order. The EPA submitted the proposed rule to OMB for review. Changes made in response to suggestions or recommendations from OMB are documented and included in the public record. The OMB has informed EPA that it no longer considers this action significant. Therefore, it is not subject to further OMB review. The OMB did request a copy of the final regulation and preamble prior to publication. However, they did not request any changes in the final rule.

B. Paperwork Reduction Act

The information collection requirements in the final rule have been submitted for approval to the OMB 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. 1976.01) and a copy may be obtained from Susan Auby by mail at the Office of Environmental Information, Collection Strategies Division (2822), U.S. EPA, 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 from the internet at *http://www.epa.gov/icr.* The information requirements are not enforceable until OMB approves them.

The final rule contains monitoring, reporting, and recordkeeping requirements. These notices and reports are the minimum needed by us to determine if you are subject to the NESHAP and whether you are in compliance. These recordkeeping requirements are the minimum necessary to determine initial and ongoing compliance. Based on reported information, we would decide which reinforced plastic composites facilities and what records or processes should be inspected. The recordkeeping and reporting requirements are consistent with the General Provisions of 40 CFR part 63.

These recordkeeping and reporting requirements are specifically authorized by section 114 of the CAA (42 U.S.C. 7414). All information submitted to us for which a claim of confidentiality is made will be safeguarded according to our policies in 40 CFR part 2, subpart B.

We expect the final rule to affect a total of approximately 488 facilities over the first 3 years. This includes 435 existing facilities, and 53 new reinforced plastic composites facilities that will become subject to the final NESHAP during the first 3 years.

The estimated average annual burden for the first 3 years after promulgation of the final NESHAP for industry and the implementing agency is outlined below. You can find the details of this information collection in the ''Standard Form 83 Supporting Statement for ICR No. 1976.01,'' in Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52).

Affected entity	Total hours	Labor costs	Total annual O&M costs	Total costs
Industry	13,785	$613,623	$15,807	$629,431
Implementing agency	11,120	444,047	NA	444,047

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. Control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15. When the OMB approves the information collection requirements of the final rule, the EPA will amend the table in 40 CFR

part 9 of currently approved ICR control numbers issued by OMB for various regulations.

C. Regulatory Flexibility Analysis

The EPA has prepared a Final Regulatory Flexibility Analysis (FRFA) in connection with the final rule. For purposes of assessing the impacts of today's final rule on small entities, small entity is defined as: (1) A small business ranging from 500 to 1,000 employees as defined by the Small Business Administration's size standards; (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. The table below presents the size threshold for small businesses by NAICS Codes.

Category	NAICS codes	Maximum number of employees to be considered a small business
Manufacturing	335312 336211 336112 33612 336213 336413 33651	1000
	325211 327993 332998 33312 33651 335311 335313 33422 33653 336399	750
	All other identified NAICS Codes in this source category	500

In accordance with section 603 of the RFA, EPA prepared an initial regulatory flexibility analysis (IRFA) for the proposed rule and convened a Small Business Advocacy Review Panel to obtain advice and recommendations of representatives of the regulated small entities in accordance with section 609(b) of the RFA (*see* 66 FR 40324). A detailed discussion of the Panel's advice and recommendations is found in Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52). A summary of the panel's recommendations is presented below.

We have also prepared a FRFA for today's rule. The FRFA addresses the issues raised by public comments on the IRFA. The FRFA is available in the docket and is summarized below.

Section 112 of the CAA requires us to list categories and subcategories of major sources and, in some cases, area sources of HAP and to establish NESHAP for the listed source categories and subcategories. The Reinforced Plastic Composites Production source category (major sources only) was included on the initial list of source categories published on July 16, 1992 (57 FR 31576). Major sources of HAP are those that have the potential to emit greater than 10 tpy of any one HAP or 25 tpy of any combination of HAP.

The objective of the final rule is to apply standards based on MACT to all major sources in this source category. The criteria used to establish MACT are contained in section 112(d) of the CAA.

We received several comments on the economic analysis for the proposed rule. However, these comments related to the general analysis methodology and were mainly focused on the above-the-floor requirements. These requirements did not impact any small businesses in our analysis. We had no comments specifically in the IRFA.

Based on SBA size definitions and reported sales and employment data, we identified 279 of the 357 companies owning reinforced plastic composites facilities as small businesses. Although small businesses represent almost 80 percent of the companies within the source category, they are expected to incur 53 percent of the total industry compliance costs of $21.5 million. The average total annual compliance cost is projected to be $40,000 per small company, compared to the industry average of $60,000 per company. Under the final standards, the mean annual compliance cost, as a share of sales, for small businesses is 0.8 percent, and the median is 0.5 percent, with a range of 0.01 to 9.6 percent. We estimate that 24 percent of small businesses (or 67 firms) may experience an impact greater than 1 percent of sales, and 5 percent of small businesses (or 14 firms) may experience an impact greater than 3 percent of sales.

We also performed an economic impact analysis (EIA) that accounted for firm behavior to provide an estimate of the facility and market impacts of the final rule. This industry is characterized by profit margins of 3 to 4 percent. Small businesses were found to have higher per-unit production costs under baseline conditions and incur slightly higher per-unit compliance costs. As a result of these factors, the economic analysis indicates that 12 percent of facilities owned by small business are at risk of closure because of the final rule. Note that this number is slightly higher then the estimate at proposal, which was 10 percent. This change is not due to any change in stringency of the rule as applied to small businesses. It is due to the reduction in stringency of the rule for large businesses.

Although any facility closures are cause for concern, the number of facilities at risk for closure would be the same if the final rule required only the MACT floor level of control for all facilities. The MACT floor is the least stringent level allowed by statute.

The proposed rule contained significant accommodations for small businesses where requirements were more stringent then the MACT floor for existing sources. Since these above-the-floor requirements for existing sources have been eliminated in the final rule for all process/product groupings except centrifugal casting and continuous lamination/casting, these accommodations for small business are no longer necessary.

Other accommodations originally included to aid small businesses were extended to all businesses at proposal and have been retained in the final NESHAP.

In the proposed rule, there were different HAP emissions thresholds above which an existing facility had to comply with more stringent above-the-floor requirements of 95 percent capture and control. This threshold was 250 tpy of HAP emissions for small businesses and 100 tpy for large businesses. In the final rule, we have removed the above-the-floor capture and control requirements for existing sources, except for those with centrifugal casting or continuous lamination/casting, and we have established a single threshold of 100 tpy for these existing sources, whether they are small or large businesses. Based on our analysis, setting the threshold at 100 tpy for these sources, rather than retaining the proposed 100 tpy for large businesses and 250 tpy for small businesses, does not result in any additional impacts on small businesses. This is because we have no facilities that emit over 100 tpy, but less than 250 tpy, of HAP from centrifugal casting or continuous lamination/casting processes, and are small businesses.

The reporting and recordkeeping requirements for these small businesses include initial notifications, startup notifications and compliance reports. These requirements were discussed in more detail under the discussion of the Paperwork Reduction Act above. We estimate that 301 existing facilities owned by small businesses will be impacted by these requirements, and 53 new facilities owned by small businesses will be impacted in the first 3 years. The professional skills required to complete these reports include the ability to calculate HAP emissions and resin use and read and follow report format guidance. All facilities impacted by the final rule are predicted to have personnel with the necessary skills because they would need these skills to comply with other regulatory requirements, such as Toxic Release Inventory (TRI) reporting.

Provisions to minimize the reporting and recordkeeping requirements on small business have been incorporated into the final rule. These provisions include allowing the facility to substantiate resin and gel coat HAP contents using MSDS rather than requiring testing of each resin and gel coat; use of resin purchase records to determine resin use; and exemption of facilities that can demonstrate that all their resin and gel coats comply with the required HAP content limits from the requirement to keep records of resin use and calculate HAP emissions factor averages. These provisions have also been extended to all companies subject to today's final NESHAP.

These facilities may also be subject to the NESHAP being developed for plastic parts and products. There should be no duplication of effort as a result of the Reinforced Plastic Composites NESHAP and the Plastic Parts and Products NESHAP being developed because the Reinforced Plastic Composites NESHAP will cover different operations. Facilities subject to the final rule are also subject to HAP emissions estimate reporting under the TRI requirements. In the final rule, we could determine no ways to combine TRI and the reporting requirements of the NESHAP because the objectives and statutory authorities of these requirements are different.

As indicated above, we have incorporated significant alternatives into the final rule to minimize the impact on small businesses but still meet the objectives of the CAA.

As required by section 609(b) of the RFA, EPA conducted outreach to small entities and convened a SBAR panel to review advice and recommendations from representatives of the small entities that potentially would be subject to the proposed rule requirements.

Consistent with RFA/SBREFA requirements, the panel evaluated the assembled materials and small-entity comments on issues related to the elements of the IRFA. A copy of the panel report is included in the docket.

The panel considered numerous regulatory flexibility options in response to concerns raised by the small entity representatives. The major concerns included the affordability and technical feasibility of add-on controls, the resin and gel coat HAP contents required to meet some of the MACT floors, and the regulatory treatment of specialty products.

These are the major panel recommendations and EPA's response in today's final rule:

• Recommend setting higher thresholds for small businesses than EPA had initially considered for requirements to use add-on controls.

Response: In today's action, EPA has removed the requirements for add-on controls for open molding, pultrusion, SMC and BMC manufacturing, and mixing operations at existing sources. We are retaining this above-the-floor requirement for centrifugal casting and continuous lamination/casting operations at existing sources and setting a single threshold of 100 tpy applicable to both small and large businesses. Setting a common threshold at 100 tpy does not increase the impacts on any small business because we identified no small-business owned sources that are impacted as the result of the decision to set a single threshold. Also, the original reason for setting different existing source thresholds for small versus large businesses were the impacts of the capital cost of add-on controls for open molding, pultrusion, SMC and BMC manufacturing, and mixing. Because existing sources that have these operations are no longer subject to any above-the-floor add-on control requirements, the original reason for having the different thresholds no longer exists.

The following recommendations were developed for small businesses, but were extended to both large and small business in the proposed rule and in the final rule.

• Recommend setting the new source floor for small-owned sources at the level of the existing source floor.

Response: Today's final rule includes this provision.

• Recommend establishing separate floors for specialty products.

Response: Today's final rule includes provisions for special products.

• Explore pollution-prevention alternatives to add-on controls.

Response: The EPA did explore this possibility with industry sources. We could not devise a workable pollution-prevention alternative to include in the proposed rule and requested comment. The only comments received on a pollution-prevention alternative were for the pultrusion process/product grouping. In the final rule, we have incorporated a new pollution-prevention technology recommended in the comments as a compliance alternative for pultrusion operations.

• Recommend allowing individual facilities to use the same resin in all resin application processes.

Response: Today's final rule includes this provision.

• Reconsider the resin HAP content requirement for tooling resins.

Response: We requested additional information on tooling resins

subsequent to proposal. Based on information we received, the floor for manual application of tooling resins was made less stringent. The available data still indicate that the floor for mechanical tooling resins in the proposed rule was appropriate.

• Recommend separate floors for white/off-white gel coats and other pigmented gel coats.

Response: Today's final rule includes this provision.

• Reconsider the Agency's estimates of the cost of add-on controls.

Response: We conducted a thorough review of our costs for add-on controls and made significant revisions to the cost estimates. As a result, the add-on control requirements have been removed for open molding, pultrusion, SMC and BMC manufacturing and mixing operations at existing sources.

• Recommend grouping high-strength applications with corrosion-resistant operations.

Response: Today's final rule includes this provision.

As contemplated by Section 212 of SBREFA, EPA is also preparing a small entity compliance guide to help small entities comply with this rule. This guide will be made available on EPA's air toxics website, *http://www.epa.gov/ttn/atw/* by April 21, 2004.

D. Unfunded Mandates Reform Act

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, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 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 EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that the final rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. The total cost to the private sector is approximately $21.5 million per year for existing sources and $7.7 million per year for new sources. The final rule contains no mandates affecting State, local, or Tribal governments. Thus, today's final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

In adopting the final rule, we have chosen regulatory alternatives that are the minimum mandated by the CAA with one exception. For existing centrifugal casting and continuous lamination/casting operations that emit over 100 tpy from these operations, we have chosen a regulatory alternative of 95 percent capture and control, rather than the minimum level of control required under the CAA. We choose this alternative because it results in additional HAP emissions reductions from these processes with a cost per ton of HAP reductions we consider to be reasonable.

We have determined that the final rule contains no regulatory requirements that might significantly or uniquely affect small governments because it contains no requirements that apply to such governments or impose obligations upon them.

E. Executive Order 13132, Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

The final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. No reinforced plastic composites production facilities subject to the final NESHAP are owned by State or local governments. Therefore, State and local governments will not have any direct compliance costs resulting from the final rule. Furthermore, the final NESHAP do not require these governments to take on any new responsibilities. Therefore, Executive Order 13132 does not apply to the final rule.

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

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.'' The final rule does not have tribal implications as specified in Executive Order 13175. 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, because we are not aware of any Indian tribal governments or communities affected by the final rule. Thus, Executive Order 13175 does not apply to the final rule.

G. 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 planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. 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 final rule is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. We determined that the overall energy demand for operations in the Reinforced Plastic Composites Production source category could increase by 10 million standard cubic feet per year of natural gas, and 0.6 million kilowatt hours of electricity per year as a result of the final rule. These are not significant adverse effects under the Executive Order.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113; 15 U.S.C. 272 note) directs 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 OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

This rulemaking involves technical standards. The EPA cites in this rule the EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 18, 25, 25A, 204, and 204B, C, D, E. 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 1A, 2A, 2D, 2F, 2G, 204, 204B–E. The search and review results have been documented and are placed in Docket ID No. OAR–2003–0003 (formerly Docket No. A–94–52).

Three voluntary consensus standards were identified as acceptable alternatives to EPA test methods for the purposes of this rule.

The voluntary consensus standard ASME PTC 19.10–1981–Part 10, ''Flue and Exhaust Gas Analyses,'' is cited in this 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 D6420–99, ''Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry (GC/MS),'' is appropriate in the cases described below for inclusion in the final rule, in addition to the currently available EPA Method 18, codified at 40 CFR part 60, appendix A.

Similar to EPA's performance-based Method 18, ASTM D6420–99 is also a performance-based method for measurement of gaseous organic compounds. However, ASTM D6420–99 was written to support the specific use of highly portable and automated GC/MS. While offering advantages over the traditional Method 18, the ASTM method does allow some less stringent criteria for accepting GC/MS results than required by Method 18. Therefore, ASTM D6420–99 is a suitable alternative to Method 18 only where the target compound(s) are those listed in Section 1.1 of ASTM D6420–99, and the target concentration is between 150 parts per billion volume and 100 ppmv.

For target compound(s) not listed in Section 1.1 of ASTM D6420–99, but potentially detected by mass spectrometry, the regulation specifies that the additional system continuing calibration check after each run, as detailed in Section 10.5.3 of the ASTM method, must be followed, met, documented, and submitted with the data report even if there is no moisture condenser used or the compound is not considered water soluble. For target compound(s) not listed in Section 1.1 of ASTM D6420–99, and not amenable to detection by mass spectrometry, ASTM D6420–99 does not apply.

As a result, EPA is citing ASTM D6420–99 in subpart WWWW of part 63. The EPA will also cite Method 18 as a gas chromatography (GC) option in addition to ASTM D6420–99. This will allow the continued use of GC configurations other than GC/MS.

The EPA requested comments on proposed compliance demonstration requirements in the proposed rule, and specifically invited the public to identify potentially applicable voluntary consensus standards. The only comment we received on voluntary consensus standards was that we should allow the use of the vapor suppressant effectiveness test protocol developed by the CFA to determine vapor suppressant effectiveness. We have reviewed the information supplied by the commenter and have incorporated this test method, ''Vapor Suppressant Effectiveness Test Protocol,'' into the final rule as appendix A to subpart WWWW of 40 CFR part 63.

The search for emissions measurement procedures identified 13 additional voluntary consensus standards potentially applicable to the final rule. The EPA determined that 11 of these 13 standards were impractical alternatives to EPA test methods for the purposes of this rulemaking. Therefore, EPA will not adopt these standards today. The reasons for this determination for the 11 methods are in the docket.

The following two voluntary consensus standards identified in this search were not available at the time the review was conducted for the purposes of this rulemaking 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 63.5850 and Table 6 to subpart WWWW of part 63 list the EPA testing methods included in the final 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.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the 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. The EPA will submit a report containing the final 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 final rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is

published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). The final rule will be effective on April 21, 2003.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous air pollutants, Incorporation by reference, Reporting and recordkeeping requirements, and Volatile organic compounds.

Dated: February 28, 2003.

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 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. Section 63.14 is amended by adding paragraph (b)(29) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(b) * * *

(29) ASTM D6420–99, Standard Test Method for Determination of Gaseous Organic Compounds by Direct Interface Gas Chromatography-Mass Spectrometry, IBR approved for §§ 63.5799 and 63.5850.

* * * * *

■ 3. Part 63 is amended by adding subpart WWWW to read as follows:

Subpart WWWW—National Emissions Standards for Hazardous Air Pollutants: Reinforced Plastic Composites Production

Sec.

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What This Subpart Covers

§ 63.5780 What is the purpose of this subpart?

This subpart establishes national emissions standards for hazardous air pollutants (NESHAP) for reinforced plastic composites production. This subpart also establishes requirements to demonstrate initial and continuous compliance with the hazardous air pollutants (HAP) emissions standards.

§ 63.5785 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a reinforced plastic composites production facility that is located at a major source of HAP emissions. Reinforced plastic composites production is limited to operations in which reinforced and/or nonreinforced plastic composites or plastic molding compounds are manufactured using thermoset resins and/or gel coats that contain styrene to produce plastic composites. The resins and gel coats may also contain materials designed to enhance the chemical, physical, and/or thermal properties of the product. Reinforced plastic composites production also includes cleaning, mixing, HAP-containing materials storage, and repair operations associated with the production of plastic composites.

(b) You are not subject to this subpart if your facility only repairs reinforced plastic composites. Repair includes the non-routine manufacture of individual components or parts intended to repair a larger item as defined in § 63.5935

(c) You are not subject to this subpart if your facility is a research and development facility as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) You are not subject to this subpart if your reinforced plastic composites operations use less than 1.2 tons per year (tpy) of thermoset resins and gel coats that contain styrene combined.

§ 63.5787 What if I also manufacture fiberglass boats or boat parts?

(a) If your source meets the applicability criteria in § 63.5785, and is not subject to the Boat Manufacturing NESHAP (40 CFR part 63, subpart VVVV), you are subject to this subpart regardless of the final use of the parts you manufacture.

(b) If your source is subject to 40 CFR part 63, subpart VVVV, and all the reinforced plastic composites you manufacture are used in manufacturing your boats, you are not subject to this subpart.

(c) If you are subject to 40 CFR part 63, subpart VVVV, and meet the applicability criteria in § 63.5785, and produce reinforced plastic composites that are not used in fiberglass boat manufacture at your facility, all operations associated with the manufacture of the reinforced plastic composites parts that are not used in fiberglass boat manufacture at your facility are subject to this subpart, except as noted in paragraph (d) of this section.

(d) Facilities potentially subject to both this subpart and 40 CFR part 63, subpart VVVV may elect to have the operations in paragraph (c) of this section covered by 40 CFR part 63, subpart VVVV, in lieu of this subpart, if they can demonstrate that this will not result in any organic HAP emissions increase compared to complying with this subpart.

§ 63.5790 What parts of my plant does this subpart cover?

(a) This subpart applies to each new or existing affected source at reinforced plastic composites production facilities.

(b) The affected source consists of all parts of your facility engaged in the following operations: Open molding, closed molding, centrifugal casting, continuous lamination, continuous casting, polymer casting, pultrusion, sheet molding compound (SMC) manufacturing, bulk molding compound (BMC) manufacturing, mixing, cleaning of equipment used in reinforced plastic composites manufacture, HAP-containing materials storage, and repair operations on parts you also manufacture.

(c) The following operations are specifically excluded from any requirements in this subpart: Application of mold sealing and release agents, mold stripping and cleaning, repair of parts that you did not manufacture, including non-routine manufacturing of parts, personal activities that are not part of the manufacturing operations (such as hobby shops on military bases), prepreg materials as defined in § 63.5935, non-gel coat surface coatings, repair or production materials that do not contain resin or gel coat, and research and development operations as defined in section 112(c)(7) of the CAA.

(d) Production resins that must meet military specifications are allowed to meet the organic HAP limit contained in that specification. In order for this exemption to be used, you must supply to the permitting authority the specifications certified as accurate by the military procurement officer, and those specifications must state a requirement for a specific resin, or a specific resin HAP content. Production resins for which this exemption is used must be applied with nonatomizing resin application equipment unless you can demonstrate this is infeasible. You must keep a record of the resins for which you are using this exemption.

§ 63.5795 How do I know if my reinforced plastic composites production facility is a new affected source or an existing affected source?

(a) A reinforced plastic composites production facility is a new affected source if it meets all the criteria in paragraphs (a)(1) and (2) of this section.

(1) You commence construction of the affected source after August 2, 2001.

(2) You commence construction, and no other reinforced plastic composites production affected source exists at that site.

(b) For the purposes of this subpart, an existing affected source is any affected source that is not a new affected source.

Calculating Organic HAP Emissions Factors for Open Molding and Centrifugal Casting

§ 63.5796 What are the organic HAP emissions factor equations in Table 1 to this subpart, and how are they used in this subpart?

Emissions factors are used in this subpart to determine compliance with certain organic HAP emissions limits in Tables 3 and 5 to this subpart. You may use the equations in Table 1 to this subpart to calculate your emissions factors. Equations are available for each open molding operation and centrifugal casting operation and have units of pounds of organic HAP emitted per ton (lb/ton) of resin or gel coat applied. These equations are intended to provide a method for you to demonstrate compliance without the need to conduct for a HAP emissions test. In lieu of these equations, you can elect to use site-specific organic HAP emissions factors to demonstrate compliance provided your site-specific organic HAP

emissions factors are incorporated in the facility's air emissions permit and are based on actual facility HAP emissions test data. You may also use the organic HAP emissions factors calculated using the equations in Table 1 to this subpart, combined with resin and gel coat use data, to calculate your organic HAP emissions.

63.5797 How do I determine the organic HAP content of my resins and gel coats?

In order to determine the organic HAP content of resins and gel coats, you may rely on information provided by the material manufacturer, such as manufacturer's formulation data and material safety data sheets (MSDS), using the procedures specified in paragraphs (a) through (c) of this section, as applicable.

(a) Include in the organic HAP total each organic HAP that is present at 0.1 percent by mass or more for Occupational Safety and Health Administration-defined carcinogens, as specified in 29 CFR 1910.1200(d)(4) and at 1.0 percent by mass or more for other organic HAP compounds.

(b) If the organic HAP content is provided by the material supplier or manufacturer as a range, you must use the upper limit of the range for determining compliance. If a separate measurement of the total organic HAP content, such as an analysis of the material by EPA Method 311 of appendix A to 40 CFR part 63, exceeds the upper limit of the range of the total organic HAP content provided by the material supplier or manufacturer, then you must use the measured organic HAP content to determine compliance.

(c) If the organic HAP content is provided as a single value, you may use that value to determine compliance. If a separate measurement of the total organic HAP content is made and is less than 2 percentage points higher than the value for total organic HAP content provided by the material supplier or manufacturer, then you still may use the provided value to demonstrate compliance. If the measured total organic HAP content exceeds the provided value by 2 percentage points or more, then you must use the measured organic HAP content to determine compliance.

§ 63.5798 What if I want to use, or I manufacture, an application technology (new or existing) whose organic HAP emissions characteristics are not represented by the equations in Table 1 to this subpart?

If you wish to use a resin or gel coat application technology (new or existing), whose emission characteristics are not represented by the equations in Table 1 to this subpart, you may use the procedures in paragraphs (a) or (b) of this section to establish an organic HAP emissions factor. This organic HAP emissions factor may then be used to determine compliance with the emission limits in this subpart, and to calculate facility organic HAP emissions.

(a) Perform a organic HAP emissions test to determine a site-specific organic HAP emissions factor using the test procedures in § 63.5850.

(b) Submit a petition to the Administrator for administrative review of this subpart. This petition must contain a description of the resin or gel coat application technology and supporting organic HAP emissions test data obtained using EPA test methods or their equivalent. The emission test data should be obtained using a range of resin or gel coat HAP contents to demonstrate the effectiveness of the technology under the different conditions, and to demonstrate that the technology will be effective at different sites. We will review the submitted data, and, if appropriate, update the equations in Table 1 to this subpart.

§ 63.5799 How do I calculate my facility's organic HAP emissions on a tpy basis for purposes of determining which paragraphs of § 63.5805 apply?

To calculate your facility's organic HAP emissions in tpy for purposes of determining which paragraphs in § 63.5805 apply to you, you must use the procedures in either paragraph (a) of this section for new facilities prior to startup, or paragraph (b) of this section for existing facilities and new facilities after startup. You are not required to calculate or report emissions under this section if you are an existing facility that does not have centrifugal casting or continuous lamination/casting operations, or a new facility that does not have any of the following operations: Open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC and BMC manufacturing, and mixing. Emissions calculation and emission reporting procedures in other sections of this subpart still apply. Calculate organic HAP emissions prior to any add-on control device, and do not include organic HAP emissions from any resin or gel coat used in operations subject to the Boat Manufacturing NESHAP, 40 CFR part 63, subpart VVVV, or from the manufacture of large parts as defined in § 63.5805(d)(2). For centrifugal casting operations at existing facilities, do not include any organic HAP emissions where resin or gel coat is applied to an open centrifugal mold using open molding application techniques. Table 1 and the Table 1 footnotes to this subpart present more information on calculating centrifugal casting organic HAP emissions. The timing and reporting of these calculations is discussed in paragraph (c) of this section.

(a) For new facilities prior to startup, calculate a weighted average organic HAP emissions factor for the operations specified in § 63.5805(b) and (d) on a lbs/ton of resin and gel coat basis. Base the weighted average on your projected operation for the 12 months subsequent to facility startup. Multiply the weighted average organic HAP emissions factor by projected resin use over the same period. You may calculate your organic HAP emissions factor based on the factors in Table 1 to this subpart, or you may use any HAP emissions factor approved by us, such as factors from the Compilation of Air Pollutant Emissions Factors, Volume I: Stationary Point and Area Sources (AP–42), or organic HAP emissions test data from similar facilities.

(b) For existing facilities and new facilities after startup, you may use the procedures in either paragraph (b)(1) or (2) of this section. If the emission factors for an existing facility have changed over the period of time prior to their initial compliance date due to incorporation of pollution-prevention control techniques, existing facilities may base the average emission factor on their operations as they exist on the compliance date. If an existing facility has accepted an enforceable permit limit of less than 100 tons per year of HAP, and can demonstrate that they will operate at that level subsequent to the compliance date, the they can be deemed to be below the 100 tpy threshold.

(1) *Use a calculated emission factor.* Calculate a weighted average organic HAP emissions factor on a lbs/ton of resin and gel coat basis. Base the weighted average on the prior 12 months of operation. Multiply the weighted average organic HAP emissions factor by resin and gel coat use over the same period. You may calculate this organic HAP emissions factor based on the equations in Table 1 to this subpart, or you may use any organic HAP emissions factor approved by us, such as factors from AP–42, or site-specific organic HAP emissions factors if they are supported by HAP emissions test data.

(2) *Conduct performance testing.* Conduct performance testing using the test procedures in § 63.5850 to determine a site-specific organic HAP emissions factor in units of lbs/ton of resin and gel coat used. Conduct the test

under conditions expected to result in the highest possible organic HAP emissions. Multiply this factor by annual resin and gel coat use to determine annual organic HAP emissions. This calculation must be repeated and reported annually.

(c) Existing facilities must initially perform this calculation based on their 12 months of operation prior to April 21, 2003, and include this information with their initial notification report. Existing facilities must repeat the calculation based on their resin and gel coat use in the 12 months prior to their initial compliance date, and submit this information with their initial compliance report. After their initial compliance date, existing and new facilities must recalculate organic HAP emissions over the 12-month period ending June 30 or December 31, whichever date is the first date following their compliance date specified in § 63.5800. Subsequent calculations should cover the periods in the semiannual compliance reports.

Compliance Dates and Standards

§ 63.5800 When do I have to comply with this subpart?

You must comply with the standards in this subpart by the dates specified in Table 2 to this subpart. Facilities meeting a organic HAP emissions standard based on a 12-month rolling average must begin collecting data on the compliance date in order to demonstrate compliance.

§ 63.5805 What standards must I meet to comply with this subpart?

You must meet the requirements of paragraphs (a) through (h) of this section that apply to you. You may elect to comply using any options to meeting these standards described in §§ 63.5810 through 63.5830. Use the procedures in § 63.5799 to determine if you meet or exceed the 100 tpy threshold.

(a) If you have an existing facility that does not have any centrifugal casting or continuous lamination/casting operations, or an existing facility that does have centrifugal casting or continuous lamination/casting operations, but the combination of all centrifugal casting and continuous lamination/casting operations emit less than 100 tpy of HAP, you must meet the annual average organic HAP emissions limits in Table 3 to this subpart and the work practice standards in Table 4 to this subpart that apply to you.

(b) If you have an existing facility that emits 100 tpy or more of HAP from the combination of all centrifugal casting and continuous lamination/casting operations, you must reduce the total organic HAP emissions from these operations by at least 95 percent by weight and meet any applicable work practice standards in Table 4 to this subpart that apply to you. Operations other than centrifugal casting, and continuous lamination/casting, must meet the requirements in Tables 3 and 4 to this subpart. As an alternative to meeting 95 percent by weight, you may meet the organic HAP emissions limits in Table 5 to this subpart. If you have a continuous lamination/casting operation, that operation may alternatively meet a organic HAP emissions limit of 1.47 lbs/ton of neat resin plus and neat gel coat plus applied. For centrifugal casting, the percent reduction requirement does not apply to organic HAP emissions that occur during resin application onto an open centrifugal casting mold using open molding application techniques.

(c) If you have a new facility that emits less than 100 tpy of HAP from the combination of all open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC manufacturing, mixing, and BMC manufacturing, you must meet the annual average organic HAP emissions limits in Table 3 to this subpart and the work practice standards in Table 4 to this subpart that apply to you.

(d)(1) Except as provided in paragraph (d)(2) of this section, if you have a new facility that emits 100 tpy or more of HAP from the combination of all open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC manufacturing, mixing, and BMC manufacturing, you must reduce the total organic HAP emissions from these operations by at least 95 percent by weight and meet any applicable work practice standards in Table 4 to this subpart that apply to you. As an alternative to meeting 95 percent by weight, you may meet the organic HAP emissions limits in Table 5 to this subpart. If you have a continuous lamination/casting operation, that operation may alternatively meet a organic HAP emissions limit of 1.47 lbs/ton of neat resin plus and neat gel coat plus applied.

(2)(i) If your new facility manufactures large reinforced plastic composites parts using open molding or pultrusion operations, the specific open molding and pultrusion operations used to produce large parts are not required to reduce HAP emissions by 95 weight percent, but must meet the emission limits in Table 3 to this subpart.

(ii) A large open molding part is defined as a part that, when the final finished part is enclosed in the smallest rectangular six-sided box into which the part can fit, the total interior volume of the box exceeds 250 cubic feet, or any interior sides of the box exceed 50 square feet.

(iii) A large pultruded part is a part that exceeds an outside perimeter of 24 inches or has more than 350 reinforcements.

(e) If you have a new or existing facility subject to paragraphs (a) or (c) of this section at their initial compliance date, that subsequently meets or exceeds the 100 tpy threshold in any calendar year, you must notify your permitting authority in your compliance report. You may at the same time request a one-time exemption from the requirements of paragraphs (b) or (d) of this section in your compliance report if you can demonstrate all of the following:

(1) The exceedance of the threshold was due to circumstances that will not to be repeated.

(2) The average annual organic HAP emissions from the potentially affected operations for the last 3 years were below 100 tpy.

(3) Projected organic HAP emissions for the next calendar year are below 100 tpy, based on projected resin and gel coat use and the HAP emission factors calculated according to the procedures in § 63.5799

(f) If you apply for an exemption in paragraph (e) of this section, and subsequently exceed the HAP emission thresholds specified in paragraphs (a) or (c) of this section over the next 12-month period, you must notify the permitting authority in your semi-annual report, the exemption is removed, and your facility must comply with paragraphs (b) or (d) of this section within 3 years from the time your organic HAP emissions first exceeded the threshold.

(g) If you have repair operations subject to this subpart as defined in § 63.5785, these repair operations must meet the requirements in Tables 3 and 4 to this subpart, and are not required to meet the 95 percent organic HAP emissions reduction requirements in paragraphs (b) or (d) of this section.

(h) If you use an add-on control device to comply with this subpart, you must meet all requirements contained in 40 CFR part 63, subpart SS.

Options for Meeting Standards

§ 63.5810 What are my options for meeting the standards for open molding and centrifugal casting operations at new and existing sources?

You must use one of the following methods in paragraphs (a) through (d) of this section to meet the standards in § 63.5805. When you are complying with an emission limit in Tables 3 or 5

to this subpart, you may use any control method that reduces organic HAP emissions, including reducing resin and gel coat organic HAP content, changing to nonatomized mechanical application, covered curing techniques, and routing part or all of your emissions to an add-on control. The necessary calculations must be completed within 30 days after the end of each month. You may switch between the compliance options in paragraphs (a) through (d) of this section. When you change to an option based on a 12-month rolling average, you must base the average on the previous 12 months of data calculated using the compliance option you are currently using unless you were using the compliant materials option in paragraph (d) of this section. In this case, you must immediately begin collecting resin and gel coat use data and demonstrate compliance 12 months after changing options.

(a) *Meet the individual organic HAP emissions limits for each operation.* Demonstrate that you meet the individual organic HAP emissions limits for each open molding operation and for each centrifugal casting operation type in Tables 3, or 5 to this subpart that apply to you. This is done in two steps. First, determine an organic HAP factor for each individual resin and gel coat, application method, and control method you use in a particular operation. Second, calculate, for each particular operation type, a weighted average of those organic HAP emissions factors based on resin and gel coat use. Your calculated organic HAP emissions factor must either be at or below the applicable organic HAP emissions limit in Tables 3 or 5 to this subpart based on a 12-month rolling average. Use the procedures described in paragraphs (a)(1) through (3) of this section to calculate average organic HAP emissions factors for each of your operations.

(1) Calculate your actual organic HAP emissions factor for each different process stream within each operation type. A process stream is defined as each individual combination of resin or gel coat, application technique, and control technique. Process streams within operations types are considered different from each other if any of the following three characteristics vary: The neat resin plus or neat gel coat plus organic HAP content, the application technique, or the control technique. You must calculate organic HAP emissions factors for each different process stream by using the appropriate equations in Table 1 to this subpart for open molding and for centrifugal casting, or site-specific organic HAP emissions factors discussed in § 63.5796. If you want to use vapor suppressants to meet the organic HAP emissions limit for open molding, you must determine the vapor suppressant effectiveness by conducting testing according to the procedures specified of appendix A to subpart WWWW of 40 CFR part 63. If you want to use an add-on control device to meet the organic HAP emissions limit, you must determine the add-on control factor by conducting capture and control efficiency testing, using the procedures specified in § 63.5850. The organic HAP emissions factor calculated from the equations in Table 1 to this subpart, or site-specific emissions factors, is multiplied by the add-on control factor to calculate the organic HAP emissions factor after control. Use Equation 1 of this section to calculate the add-on control factor used in the organic HAP emissions factor equations.

$$\text{Add-on Control Factor} = 1 - \frac{\text{\% Control Efficiency}}{100} \qquad \text{(Eq. 1)}$$

Where:

Percent Control Efficiency=a value calculated from organic HAP emissions test measurements made according to the requirements of § 63.5850 to this subpart

(2) Calculate your actual operation organic HAP emissions factor for the last 12 months for each open molding operation type and for each centrifugal casting operation type by calculating the weighted average of the individual process stream organic HAP emissions factors within each respective operation. To do this, sum the product of each individual organic HAP emissions factor calculated in paragraph (a)(1) of this section and the amount of neat resin plus and neat gel coat plus usage that correspond to the individual factors and divide the numerator by the total amount of neat resin plus and neat gel coat plus used in that operation type. Use Equation 2 of this section to calculate your actual organic HAP emissions factor for each open molding operation type and each centrifugal casting operation type.

$$\begin{array}{c}\text{Actual Operation}\\ \text{Organic HAP}\\ \text{Emissions Factor}\end{array} = \frac{\sum_{i=1}^{n}\left(\text{Actual Process Stream EF}_i * \text{Material}_i\right)}{\sum_{i=1}^{n}\text{Material}_i} \qquad \text{(Eq. 2)}$$

Where:

Actual Process Stream EF_i=actual organic HAP emissions factor for process stream i, lbs/ton

$Material_i$=neat resin plus or neat gel coat plus used during the last 12 calendar months for process stream i, tons

n=number of process streams where you calculated an organic HAP emissions factor

(3) Compare each organic HAP emissions factor calculated in paragraph (b)(2) of this section with its corresponding organic HAP emissions limit in Tables 3 or 5 to this subpart. If all emissions factors are equal to or less than their corresponding emission limits, then you are in compliance.

(b) *HAP Emissions factor averaging option.* Demonstrate each month that you meet each weighted average of the organic HAP emissions limits in Tables 3 or 5 to this subpart that apply to you. When using this option, you must demonstrate compliance with the weighted average organic HAP emissions limit for all your open molding operations, and then separately demonstrate compliance with the weighted average organic HAP emissions limit for all your centrifugal casting operations. Open molding operations and centrifugal casting

operations may not be averaged with each other.

(1) Each month calculate the weighted average organic HAP emissions limit for all open molding operations and the weighted average organic HAP emissions limit for all centrifugal casting operations for your facility for the last 12-month period to determine the organic HAP emissions limit you must meet. To do this, multiply the individual organic HAP emissions limits in Tables 3 or 5 to this subpart for each open molding (centrifugal casting) operation type by the amount of neat resin plus or neat gel coat plus used in the last 12 months for each open molding (centrifugal casting) operation type, sum these results, and then divide this sum by the total amount of neat resin plus and neat gel coat plus used in open molding (centrifugal casting) over the last 12 months. Use Equation 3 of this section to calculate the weighted average organic HAP emissions limit for all open molding operations and separately for all centrifugal casting operations.

$$\text{Weighted Average Emission Limit} = \frac{\sum_{i=1}^{n}\left(EL_i * Material_i\right)}{\sum_{i=1}^{n} Material_i} \qquad \text{(Eq. 3)}$$

Where:

EL_i=organic HAP emissions limit for operation type i, lbs/ton from Tables 3, 5 or 7 to this subpart

$Material_i$=neat resin plus or neat gel coat plus used during the last 12-month period for operation type i, tons

n=number of operations

(2) Each month calculate your actual weighted average organic HAP emissions factor for open molding and centrifugal casting. To do this, multiply your actual open molding (centrifugal casting) operation organic HAP emissions factors and the amount of neat resin plus and neat gel coat plus used in each open molding (centrifugal casting) operation type, sum the results, and divide this sum by the total amount of neat resin plus and neat gel coat plus used in open molding (centrifugal casting) operations. You must calculate your actual individual HAP emissions factors for each operation type as described in paragraphs (a)(1) and (2) of this section. Use Equation 4 of this section to calculate your actual weighted average organic HAP emissions factor.

$$\text{Actual Weighted Average Organic HAP Emissions Factor} = \frac{\sum_{i=1}^{n}\left(\text{Actual Operation } EF_i * Material_i\right)}{\sum_{i=1}^{n} Material_i} \qquad \text{(Eq. 4)}$$

Where:

Actual Individual EF_i=Actual organic HAP emissions factor for operation type i, lbs/ton

$Material_i$=neat resin plus or neat gel coat plus used during the last 12 calendar months for operation type i, tons

n=number of operations

(3) Compare the values calculated in paragraphs (b)(1) and (2) of this section. If each 12-month rolling average organic HAP emissions factor is less than or equal to the corresponding 12-month rolling average organic HAP emissions limit, then you are in compliance.

(c) *If you have multiple operation types, meet the organic HAP emissions limit for one operation type, and use the same resin(s) for all operations of that resin type.* If you have more than one operation type, you may meet the emission limit for one of those operations, and use the same resin(s) in all other open molding and centrifugal casting operations.

(1) This option is limited to resins of the same type. The resin types for which this option may be used are noncorrosion-resistant, corrosion-resistant and/or high strength, and tooling.

(2) For any combination of manual resin application, mechanical resin application, filament application, or centrifugal casting, you may elect to meet the organic HAP emissions limit for any one of these operations and use that operation's same resin in all of the resin operations listed in this paragraph. Table 7 to this subpart presents the possible combinations based on a facility selecting the application process that results in the highest allowable organic HAP content resin. If your resin organic HAP content is below the applicable values shown in Table 7 to this subpart, you are in compliance.

(3) You may also use a weighted average organic HAP content for each operation described in paragraph (c)(2) of this section. Calculate the weighted average organic HAP content monthly. Use Equation 2 in § 63.5810(a)(2) except substitute organic HAP content for organic HAP emissions factor. You are in compliance if the weighted average organic HAP content based on the last 12 months of resin use is less than or equal to the applicable organic HAP contents in Table 7 to this subpart.

(4) You may simultaneously use the averaging provisions in paragraph (b) of this section to demonstrate compliance for any operations and/or resins you do not include in your compliance demonstrations is paragraphs (c)(2) and (3) of this section. However, any resins for which you claim compliance under the option in paragraphs (c)(2) and (3) of this section may not be included in any of the averaging calculations described in paragraphs (a) or (b) of this section used for resins for which you are not claiming compliance under this option.

(d) Use resins and gel coats that do not exceed the maximum organic HAP contents shown in Table 3 to this subpart.

§ 63.5820 What are my options for meeting the standards for continuous lamination/casting operations?

You must use one or more of the options in paragraphs (a) through (d) of this section to meet the standards in § 63.5805. Use the calculation

procedures in §§ 63.5865 through 63.5890.

(a) *Compliant line option.* Demonstrate that each continuous lamination line and each continuous casting line complies with the applicable standard.

(b) *Averaging option.* Demonstrate that all continuous lamination and continuous casting lines combined, comply with the applicable standard.

(c) *Add-on control device option.* If your operation must meet the 58.5 weight percent organic HAP emissions reduction limit in Table 3 to this subpart, you have the option of demonstrating that you achieve 95 percent reduction of all wet-out area organic HAP emissions.

(d) *Combination option.* Use any combination of options in paragraphs (a) and (b) of this section or, for affected sources at existing facilities, any combination of options in paragraphs (a), (b), and (c) of this section (in which one or more lines meet the standards on their own, two or more lines averaged together meet the standards, and one or more lines have their wet-out areas controlled to a level of 95 percent).

§ 63.5830 What are my options for meeting the standards for pultrusion operations subject to the 60 weight percent organic HAP emissions reductions requirement?

You must use one or more of the options in paragraphs (a) through (e) of this section to meet the 60 weight percent organic HAP emissions limit in Table 3 to this subpart, as required in § 63.5805.

(a) Achieve an overall reduction in organic HAP emissions of 60 weight percent by capturing the organic HAP emissions and venting them to a control device or any combination of control devices. Conduct capture and destruction efficiency testing as specified in 63.5850 to this subpart to determine the percent organic HAP emissions reduction.

(b) Design, install, and operate wet area enclosures and resin drip collection systems on pultrusion machines that meet the criteria in paragraphs (b)(1) through (10) of this section.

(1) The enclosure must cover and enclose the open resin bath and the forming area in which reinforcements are pre-wet or wet-out and moving toward the die(s). The surfaces of the enclosure must be closed except for openings to allow material to enter and exit the enclosure.

(2) For open bath pultrusion machines with a radio frequency pre-heat unit, the enclosure must extend from the beginning of the resin bath to within 12.5 inches or less of the entrance of the radio frequency pre-heat unit. If the stock that is within 12.5 inches or less of the entrance to the radio frequency pre-heat unit has any drip, it must be enclosed. The stock exiting the radio frequency pre-heat unit is not required to be in an enclosure if the stock has no drip between the exit of the radio frequency pre-heat unit to within 0.5 inches of the entrance of the die.

(3) For open bath pultrusion machines without a radio frequency pre-heat unit, the enclosure must extend from the beginning of the resin bath to within 0.5 inches or less of the die entrance.

(4) For pultrusion lines with a pre-wet area prior to direct die injection, the enclosure must extend from the point at which the resin is applied to the reinforcement to within 12.5 inches or less of the entrance of the die(s). If the stock that is within 12.5 inches or less of the entrance to the die has any drip, it must be enclosed.

(5) The total open area of the enclosure must not exceed two times the cross sectional area of the puller window(s) and must comply with the requirements in paragraphs (b)(5)(i) through (iii) of this section.

(i) All areas that are open need to be included in the total open area calculation with the exception of access panels, doors, and/or hatches that are part of the enclosure.

(ii) The area that is displaced by entering reinforcement or exiting product is considered open.

(iii) Areas that are covered by brush covers are considered closed.

(6) Open areas for level control devices, monitoring devices, agitation shafts, and fill hoses must have no more than 1.0 inch clearance.

(7) The access panels, doors, and/or hatches that are part of the enclosure must close tightly. Damaged access panels, doors, and/or hatches that do not close tightly must be replaced.

(8) The enclosure may not be removed from the pultrusion line, and access panels, doors, and/or hatches that are part of the enclosure must remain closed whenever resin is in the bath, except for the time period discussed in paragraph (b)(9) of this section.

(9) The maximum length of time the enclosure may be removed from the pultrusion line or the access panels, doors, and/or hatches and may be open, is 30 minutes per 8 hour shift, 45 minutes per 12 hour shift, or 90 minutes per day if the machine is operated for 24 hours in a day. The time restrictions do not apply if the open doors or panels do not cause the limit of two times the puller window area to be exceeded. Facilities may average the times that access panels, doors, and/or hatches are open across all operating lines. In that case the average must not exceed the times shown in this paragraph (b)(9). All lines included in the average must have operated the entire time period being averaged.

(10) No fans, blowers, and/or air lines may be allowed within the enclosure. The enclosure must not be ventilated.

(c) Use direct die injection pultrusion machines with resin drip collection systems that meet all the criteria specified in paragraphs (c)(1) through (3) of this section.

(1) All the resin that is applied to the reinforcement is delivered directly to the die.

(2) No exposed resin is present, except at the face of the die.

(3) Resin drip is captured in closed piping and recycled directly to the resin injection chamber.

(d) Use a preform injection system that meets the definition in § 63.5935

(e) Use any combination of options in paragraphs (a) through (d) of this section in which different pultrusion lines comply with different options described in paragraphs (a) through (d) of this section, and

(1) Each individual pultrusion machine meets the 60 percent reduction requirement, or

(2) The weighted average reduction based on resin throughout of all machines combined is 60 percent. For purposes of the average percent reduction calculation, wet area enclosures reduce organic HAP emissions by 60 percent, and direct die injection and preform injection reduce organic HAP emissions by 90 percent.

General Compliance Requirements

§ 63.5835 What are my general requirements for complying with this subpart?

(a) You must be in compliance at all times with the work practice standards in Table 4 to this subpart, as well as the organic HAP emissions limits in Tables 3, or 5, or the organic HAP content limits in Table 7 to this subpart, as applicable, that you are meeting without the use of add-on controls.

(b) You must be in compliance with all organic HAP emissions limits in this subpart that you meet using add-on controls, except during periods of startup, shutdown, and malfunction.

(c) 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).

(d) You must develop and implement a written startup, shutdown, and malfunction plan according to the provisions in § 63.6(e)(3) for any organic

HAP emissions limits you meet using an add-on control.

Testing and Initial Compliance Requirements

§ 63.5840 By what date must I conduct a performance test or other initial compliance demonstration?

You must conduct performance tests, performance evaluations, design evaluations, capture efficiency testing, and other initial compliance demonstrations by the compliance date specified in Table 2 to this subpart, with three exceptions. Open molding and centrifugal casting operations that elect to meet a organic HAP emissions limit on a 12-month rolling average must initiate collection of the required data on the compliance date, and demonstrate compliance 1 year after the compliance date. New sources that use add-on controls to initially meet compliance must demonstrate compliance within 180 days after their compliance date.

§ 63.5845 When must I conduct subsequentperformance tests?

You must conduct a performance test every 5 years following the initial performance test for any standard you meet with an add-on control device.

§ 63.5850 How do I conduct performance tests, performance evaluations, and design evaluations?

(a) If you are using any add-on controls to meet a organic HAP emissions limit in this subpart, you must conduct each performance test, performance evaluation, and design evaluation in 40 CFR part 63, subpart SS, that applies to you. The basic requirements for performance tests, performance evaluations, and design evaluations are presented in Table 6 to this subpart.

(b) Each performance test must be conducted according to the requirements in § 63.7(e)(1) and under the specific conditions that 40 CFR part 63, subpart SS, specifies.

(c) Each performance evaluation must be conducted according to the requirements in § 63.8(e) as applicable and under the specific conditions that 40 CFR part 63, subpart SS, specifies.

(d) You may not conduct performance tests or performance evaluations during periods of startup, shutdown, or malfunction, as specified in § 63.7(e)(1).

(e) You must conduct the control device performance test using the emission measurement methods specified in paragraphs (e)(1) through (5) of this section.

(1) Use either Method 1 or 1A of appendix A to 40 CFR part 60, as appropriate, to select the sampling sites.

(2) Use Method 2, 2A, 2C, 2D, 2F or 2G of appendix A to 40 CFR part 60, as appropriate, to measure gas volumetric flow rate.

(3) Use Method 18 of appendix A to 40 CFR part 60 to measure organic HAP emissions or use Method 25A of appendix A to 40 CFR part 60 to measure total gaseous organic emissions as a surrogate for total organic HAP emissions. If you use Method 25A, you must assume that all gaseous organic emissions measured as carbon are organic HAP emissions. If you use Method 18 and the number of organic HAP in the exhaust stream exceeds five, you must take into account the use of multiple chromatographic columns and analytical techniques to get an accurate measure of at least 90 percent of the total organic HAP mass emissions. Do not use Method 18 to measure organic HAP emissions from a combustion device; use instead Method 25A and assume that all gaseous organic mass emissions measured as carbon are organic HAP emissions.

(4) You may use American Society for Testing and Materials (ASTM) D6420–99 (available for purchase from at least one of the following addresses: 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959; or University Microfilms International, 300 North Zeeb Road, Ann Arbor, MI 48106.) in lieu of Method 18 of 40 CFR part 60, appendix A, under the conditions specified in paragraphs (c)(4)(i) through (iii) of this section.

(i) If the target compound(s) is listed in Section 1.1 of ASTM D6420–99 and the target concentration is between 150 parts per billion by volume and 100 parts per million by volume.

(ii) If the target compound(s) is not listed in Section 1.1 of ASTM D6420–99, but is potentially detected by mass spectrometry, an additional system continuing calibration check after each run, as detailed in Section 10.5.3 of ASTM D6420–99, must be followed, met, documented, and submitted with the performance test report even if you do not use a moisture condenser or the compound is not considered soluble.

(iii) If a minimum of one sample/analysis cycle is completed at least every 15 minutes.

(5) Use the procedures in EPA Method 3B of appendix A to 40 CFR part 60 to determine an oxygen correction factor if required by § 63.997(e)(2)(iii)(C). You may use American Society of Mechanical Engineers (ASME) PTC 19–10–1981–Part 10 (available for purchase from ASME, P.O. Box 2900, 22 Law Drive, Fairfield, New Jersey, 07007–2900, or online at *www.asme.org/catalog*) as an alternative to EPA Method 3B of appendix A to 40 CFR part 60.

(f) The control device performance test must consist of three runs and each run must last at least 1 hour. The production conditions during the test runs must represent normal production conditions with respect to the types of parts being made and material application methods. The production conditions during the test must also represent maximum potential emissions with respect to the organic HAP content of the materials being applied and the material application rates.

(g) If you are using a concentrator/oxidizer control device, you must test the combined flow upstream of the concentrator, and the combined outlet flow from both the oxidizer and the concentrator to determine the overall control device efficiency. If the outlet flow from the concentrator and oxidizer are exhausted in separate stacks, you must test both stacks simultaneously with the inlet to the concentrator to determine the overall control device efficiency.

(h) During the test, you must also monitor and record separately the amounts of production resin, tooling resin, pigmented gel coat, clear gel coat, and tooling gel coat applied inside the enclosure that is vented to the control device.

§ 63.5855 What are my monitor installation and operation requirements?

You must monitor and operate all add-on control devices according to the procedures in 40 CFR part 63, subpart SS.

§ 63.5860 How do I demonstrate initial compliance with the standards?

(a) You demonstrate initial compliance with each organic HAP emissions standard in paragraphs (a) through (h) of § 63.5805 that applies to you by using the procedures shown in Tables 8 and 9 to this subpart.

(b) If using an add-on control device to demonstrate compliance, you must also establish each control device operating limit in 40 CFR part 63, subpart SS, that applies to you.

Emission Factor, Percent Reduction, and Capture Efficiency Calculation Procedures for Continuous Lamination/Casting Operations

§ 63.5865 What data must I generate to demonstrate compliance with the standards for continuous lamination/casting operations?

(a) For continuous lamination/casting affected sources complying with a percent reduction requirement, you must generate the data identified in

Tables 10 and 11 to this subpart for each data requirement that applies to your facility.

(b) For continuous lamination/casting affected sources complying with a lbs/ton limit, you must generate the data identified in Tables 11 and 12 to this subpart for each data requirement that applies to your facility.

§ 63.5870 How do I calculate annual uncontrolled and controlled organic HAP emissions from my wet-out area(s) and from my oven(s) for continuous lamination/casting operations?

To calculate your annual uncontrolled and controlled organic HAP emissions from your wet-out areas and from your ovens, you must develop uncontrolled and controlled wet-out area and uncontrolled and controlled oven organic HAP emissions estimation equations or factors to apply to each formula applied on each line, determine how much of each formula for each end product is applied each year on each line, and assign uncontrolled and controlled wet-out area and uncontrolled and controlled oven organic HAP emissions estimation equations or factors to each formula. You must determine the overall capture efficiency using the procedures in § 63.5850 to this subpart.

(a) To develop uncontrolled and controlled organic HAP emissions estimation equations and factors, you must, at a minimum, do the following, as specified in paragraphs (a)(1) through (6) of this section:

(1) Identify each end product and the thickness of each end product produced on the line. Separate end products into the following end product groupings, as applicable: corrosion-resistant gel coated end products, noncorrosion-resistant gel coated end products, corrosion-resistant nongel coated end products, and noncorrosion-resistant nongel coated end products. This step creates end product/thickness combinations.

(2) Identify each formula used on the line to produce each end product/thickness combination. Identify the amount of each such formula applied per year. Rank each formula used to produce each end product/thickness combination according to usage within each end product/thickness combination.

(3) For each end product/thickness combination being produced, select the formula with the highest usage rate for testing.

(4) If not already selected, also select the worst-case formula (likely to be associated with the formula with the highest organic HAP content, type of HAP, application of gel coat, thin product, low line speed, higher resin table temperature) amongst all formulae. (You may use the results of the worst-case formula test for all formulae if desired to limit the amount of testing required.)

(5) For each formula selected for testing, conduct at least one test (consisting of three runs). During the test, track information on organic HAP content and type of HAP, end product thickness, line speed, and resin temperature on the wet-out area table.

(6) Using the test results, develop uncontrolled and controlled organic HAP emissions estimation equations (or factors) or series of equations (or factors) that best fit the results for estimating uncontrolled and controlled organic HAP emissions, taking into account the organic HAP content and type of HAP, end product thickness, line speed, and resin temperature on the wet-out area table.

(b) In lieu of using the method specified in paragraph (a) of this section for developing uncontrolled and controlled organic HAP emissions estimation equations and factors, you may either method specified in paragraphs (b)(1) and (2) of this section, as applicable.

(1) For either uncontrolled or controlled organic HAP emissions estimates, you may use previously established, facility-specific organic HAP emissions equations or factors, provided they allow estimation of both wet-out area and oven organic HAP emissions, where necessary, and have been approved by your permitting authority. If a previously established equation or factor is specific to the wet-out area only, or to the oven only, then you must develop the corresponding uncontrolled or controlled equation or factor for the other organic HAP emissions source.

(2) For uncontrolled (controlled) organic HAP emissions estimates, you may use controlled (uncontrolled) organic HAP emissions estimates and control device destruction efficiency to calculate your uncontrolled (controlled) organic HAP emissions provided the control device destruction efficiency was calculated at the same time you collected the data to develop your facility's controlled (uncontrolled) organic HAP emissions estimation equations and factors.

(c) Assign to each formula an uncontrolled organic HAP emissions estimation equation or factor based on the end product/thickness combination for which that formula is used.

(d)(1) To calculate your annual uncontrolled organic HAP emissions from wet-out areas that do not have any capture and control and from wet-out areas that are captured by an enclosure but are vented to the atmosphere and not to a control device, multiply each formula's annual usage by its appropriate organic HAP emissions estimation equation or factor and sum the individual results.

(2) To calculate your annual uncontrolled organic HAP emissions that escape from the enclosure on the wet-out area, multiply each formula's annual usage by its appropriate uncontrolled organic HAP emissions estimation equation or factor, sum the individual results, and multiply the summation by 1 minus the percent capture (expressed as a fraction).

(3) To calculate your annual uncontrolled oven organic HAP emissions, multiply each formula's annual usage by its appropriate uncontrolled organic HAP emissions estimation equation or factor and sum the individual results.

(4) To calculate your annual controlled organic HAP emissions, multiply each formula's annual usage by its appropriate organic HAP emissions estimation equation or factor and sum the individual results to obtain total annual controlled organic HAP emissions.

(e) Where a facility is calculating both uncontrolled and controlled organic HAP emissions estimation equations and factors, you must test the same formulae. In addition, you must develop both sets of equations and factors from the same tests.

§ 63.5875 How do I determine the capture efficiency of the enclosure on my wet-out area and the capture efficiency of my oven(s) for continuous lamination/casting operations?

(a) The capture efficiency of a wet-out area enclosure is assumed to be 100 percent if it meets the design and operation requirements for a permanent total enclosure (PTE) specified in EPA Method 204 of appendix M to 40 CFR part 51. If a PTE does not exist, then a temporary total enclosure must be constructed and verified using EPA Method 204, and capture efficiency testing must be determined using EPA Methods 204B through E of appendix M to 40 CFR part 51.

(b) The capture efficiency of an oven is to be considered 100 percent, provided the oven is operated under negative pressure.

§ 63.5880 How do I determine how much neat resin plus is applied to the line and how much neat gel coat plus is applied to the line for continuous lamination/casting operations?

Use the following procedures to determine how much neat resin plus and neat gel coat plus is applied to the line each year.

(a) Track formula usage by end product/thickness combinations.

(b) Use in-house records to show usage. This may be either from automated systems or manual records.

(c) Record daily the usage of each formula/end product combination on each line. This is to be recorded at the end of each run (*i.e.*, when a changeover in formula or product is made) and at the end of each shift.

(d) Sum the amounts from the daily records to calculate annual usage of each formula/end product combination by line.

§ 63.5885 How do I calculate percent reduction to demonstrate compliance for Continuous Lamination/Casting Operations?

You may calculate percent reduction using any of the methods in paragraphs (a) through (d) of this section.

(a) *Compliant line option.* If all of your wet-out areas have PTE that meet the requirements of EPA Method 204 of appendix M of 40 CFR part 51, and all of your wet-out area organic HAP emissions and oven organic HAP emissions are vented to an add-on control device, use Equation 1 of this section to demonstrate compliance. In all other situations, use Equation 2 of this section to demonstrate compliance.

$$PR = \frac{(\text{Inlet}) - (\text{Outlet})}{(\text{Inlet})} \times 100 \qquad \text{(Eq. 1)}$$

Where:

PR=percent reduction

Inlet=HAP emissions entering the control device, lbs per year

Outlet=HAP emissions exiting the control device to the atmosphere, lbs per year

$$PR = \frac{(WAE_u + O_u) - (WAE_c + O_c)}{(WAE_u + O_u)} \times 100 \qquad \text{(Eq. 2)}$$

Where:

PR=percent reduction

WAE_u=uncontrolled wet-out area organic HAP emissions, lbs per year

O_u=uncontrolled oven organic HAP emissions, lbs per year

WAE_c=controlled wet-out area organic HAP emissions, lbs per year

O_c=controlled oven organic HAP emissions, lbs per year

(b) *Averaging option.* Use Equation 3 of this section to calculate percent reduction.

$$PR = \frac{\left(\sum_{i=1}^{m} WAE_{ui} + \sum_{j=1}^{n} O_{uj}\right) - \left(\sum_{i=1}^{o} WAE_{ci} + \sum_{j=1}^{p} O_{cj}\right)}{\left(\sum_{i=1}^{m} WAE_{ui} + \sum_{j=1}^{n} O_{uj}\right)} \times 100 \qquad \text{(Eq. 3)}$$

Where:

PR=percent reduction

WAE_{ui}=uncontrolled organic HAP emissions from wet-out area i, lbs per year

O_{uj}=uncontrolled organic HAP emissions from oven j, lbs per year

WAE_{ci}=controlled organic HAP emissions from wet-out area i, lbs per year

O_{cj}=controlled organic HAP emissions from oven j, lbs per year

i=number of wet-out areas

j=number of ovens

m=number of wet-out areas uncontrolled

n=number of ovens uncontrolled

o=number of wet-out areas controlled

p=number of ovens controlled

(c) *Add-on control device option.* Use Equation 1 of this section to calculate percent reduction.

(d) *Combination option.* Use Equations 1 through 3 of this section, as applicable, to calculate percent reduction.

§ 63.5890 How do I calculate a organic HAP emissions factor to demonstrate compliance for continuous lamination/casting operations?

(a) *Compliant line option.* Use Equation 1 of this section to calculate a organic HAP emissions factor in lbs/ton.

$$E = \frac{WAE_u + WAE_c + O_u + O_c}{(R + G)} \qquad \text{(Eq. 1)}$$

Where:

E=HAP emissions factor in lbs/ton of resin and gel coat

WAE_u=uncontrolled wet-out area organic HAP emissions, lbs per year

WAE_c=controlled wet-out area organic HAP emissions, lbs per year

O_u=uncontrolled oven organic HAP emissions, lbs per year

O_c=controlled oven organic HAP emissions, lbs per year

R=total usage of neat resin plus, tpy

G=total usage of neat gel coat plus, tpy

(b) *Averaging option.* Use Equation 2 of this section to demonstrate compliance.

$$E = \frac{\sum_{i=1}^{m} WAE_{ui} + \sum_{i=1}^{o} WAE_{ci} + \sum_{j=1}^{n} O_{uj} + \sum_{j=1}^{p} O_{cj}}{(R+G)} \qquad \text{(Eq. 2)}$$

Where:

E=HAP emissions factor in lbs/ton of resin and gel coat

WAE_{ui}=uncontrolled organic HAP emissions from wet-out area i, lbs per year

WAE_{ci}=controlled organic HAP emissions from wet-out area i, lbs per year

O_{uj}=uncontrolled organic HAP emissions from oven j, lbs per year

O_{cj}=controlled organic HAP emissions from oven j, lbs per year

i=number of wet-out areas

j=number of ovens

m=number of wet-out areas uncontrolled

n=number of ovens uncontrolled

o=number of wet-out areas controlled

p=number of ovens controlled

R=total usage of neat resin plus, tpy

G=total usage of neat gel coat plus, tpy

(c) *Combination option.* Use Equations 1 and 2 of this section, as applicable, to demonstrate compliance.

Continuous Compliance Requirements

§ 63.5895 How do I monitor and collect data to demonstrate continuous compliance?

(a) During production, you must collect and keep a record of data as indicated in 40 CFR part 63, subpart SS, if you are using an add-on control device.

(b) You must monitor and collect data as specified in paragraphs (b)(1) through (4) of this section.

(1) 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 (or collect data at all required intervals) at all times that the affected source is operating.

(2) You may not use data recorded during monitoring malfunctions, associated repairs, and required quality assurance or control activities for purposes to this subpart, including data averages and calculations, or fulfilling a minimum data availability requirement, if applicable. You must use all the data collected during all other periods in assessing the operation of the control device and associated control system.

(3) At all times, you must maintain necessary parts for routine repairs of the monitoring equipment.

(4) A monitoring malfunction is any sudden, infrequent, not reasonably preventable failure of the monitoring equipment to provide valid data. Monitoring failures that are caused in part by poor maintenance or careless operation are not malfunctions.

(c) You must collect and keep records of resin and gel coat use, organic HAP content, and operation where the resin is used if you are meeting any organic HAP emissions limits based on an organic HAP emissions limit in Tables 3 or 5 to this subpart. You must collect and keep records of resin and gel coat use, organic HAP content, and operation where the resin is used if you are meeting any organic HAP content limits in Table 7 to this subpart if you are averaging organic HAP contents. Resin use records may be based on purchase records if you can reasonably estimate how the resin is applied. The organic HAP content records may be based on MSDS or on resin specifications supplied by the resin supplier.

(d) If you initially demonstrate that all resins and gel coats individually meet the applicable organic HAP emissions limits, or organic HAP content limits, then resin and gel coat use records are not required. However, you must include a statement in each compliance report that all resins and gel coats still meet the organic HAP limits for compliant resins and gel coats shown in Tables 3 or 7 to this subpart. If after this initial demonstration, you change to a higher organic HAP resin or gel coat, or increase the resin or gel coat organic HAP content, or change to a higher-emitting resin or gel coat application method, then you must either again demonstrate that all resins and gel coats still meet the applicable organic HAP emissions limits, or begin collecting resin and gel coat use records and calculate compliance on a 12-month rolling average.

(e) For each of your pultrusion machines, you must record all times that wet area enclosures doors or covers are open and there is resin present in the resin bath.

§ 63.5900 How do I demonstrate continuous compliance with the standards?

(a) You must demonstrate continuous compliance with each standard in § 63.5805 that applies to you according to the methods specified in paragraphs (a)(1) through (3) of this section.

(1) Compliance with organic HAP emissions limits for sources using add-on control devices is demonstrated following the procedures in 40 CFR part 63, subpart SS. Sources using add-on controls may also use continuous emissions monitors to demonstrate continuous compliance as an alternative to control parameter monitoring.

(2) Compliance with organic HAP emissions limits is demonstrated by maintaining a organic HAP emissions factor value less than or equal to the appropriate organic HAP emissions limit listed in Tables 3, or 5 to this subpart, on a 12-month rolling average, or by including in each compliance report a statement that all resins and gel coats meet the appropriate organic HAP emissions limits, as discussed in § 63.5895(d).

(3) Compliance with organic HAP content limits in Table 7 to this subpart is demonstrated by maintaining an average organic HAP content value less than or equal to the appropriate organic HAP contents listed in Table 7 to this subpart, on a 12-month rolling average, or by including in each compliance report a statement that all resins and gel coats individually meet the appropriate organic HAP content limits, as discussed in § 63.5895(d).

(4) Compliance with the work practice standards in Table 4 to this subpart is demonstrated by performing the work practice required for your operation.

(b) You must report each deviation from each standard in § 63.5805 that applies to you. The deviations must be reported according to the requirements in § 63.5910.

(c) Except as provided in paragraph (d) of this section, during periods of startup, shutdown or malfunction, you must meet the organic HAP emissions limits and work practice standards that apply to you.

(d) When you use an add-on control device to meet standards in § 63.5805, you are not required to meet those standards during periods of startup, shutdown, or malfunction, but you must operate your affected source in accordance with the startup, shutdown, and malfunction plan.

(e) Consistent with §§ 63.6(e) and 63.7(e)(1), deviations that occur during a period of malfunction for those affected sources and standards specified in paragraph (d) of this section 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, and malfunction are violations, according to the provisions in § 63.6(e).

Notifications, Reports, and Records

§ 63.5905 What notifications must I submit and when?

(a) You must submit all of the notifications in Table 13 to this subpart that apply to you by the dates specified in Table 13 to this subpart. The notifications are described more fully in 40 CFR part 63, subpart A, referenced in Table 13 to this subpart.

(b) If you change any information submitted in any notification, you must submit the changes in writing to the Administrator within 15 calendar days after the change.

§ 63.5910 What reports must I submit and when?

(a) You must submit each report in Table 14 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 specified in Table 14 to this subpart and according to 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 § 63.5800 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 § 63.5800.

(2) The first compliance report must be postmarked or delivered no later than July 31 or January 31, whichever date follows the end of the first calendar half after the compliance date that is specified for your affected source in § 63.5800.

(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 requirements pursuant to 40 CFR part 70 or 71, and if the permitting authority has established dates for submitting semiannual reports pursuant to § 70.6 (a)(3)(iii)(A) or § 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 in paragraphs (c)(1) through (6) 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 the report and beginning and ending dates of the reporting period.

(4) 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).

(5) If there are no deviations from any organic HAP emissions limitations (emissions limit and operating limit) that apply to you, and there are no deviations from the requirements for work practice standards in Table 4 to this subpart, a statement that there were no deviations from the organic HAP emissions limitations or work practice standards during the reporting period.

(6) If there were no periods during which the continuous monitoring system (CMS), including a continuous emissions monitoring system (CEMS) and an operating parameter monitoring system were out of control, as specified in § 63.8(c)(7), a statement that there were no periods during which the CMS was out of control during the reporting period.

(d) For each deviation from a organic HAP emissions limitation (*i.e.,* emissions limit and operating limit) and for each deviation from the requirements for work practice standards that occurs at an affected source where you are not using a CMS to comply with the organic HAP emissions limitations or work practice standards in this subpart, the compliance report must contain the information in paragraphs (c)(1) through (4) of this section and in paragraphs (d)(1) and (2) 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) Information on the number, duration, and cause of deviations (including unknown cause, if applicable), as applicable, and the corrective action taken.

(e) For each deviation from a organic HAP emissions limitation (*i.e.,* emissions limit and operating limit) occurring at an affected source where you are using a CMS to comply with the organic HAP emissions limitation in this subpart, you must include the information in paragraphs (c)(1) through (4) of this section and in paragraphs (e)(1) through (12) of this section. This includes periods of startup, shutdown, and malfunction.

(1) The date and time that each malfunction started and stopped.

(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 organic HAP that was monitored at the affected source.

(9) A brief description of the process units.

(10) A brief description of the CMS.

(11) The date of the latest CMS certification or audit.

(12) A description of any changes in CMS, processes, or controls since the last reporting period.

(f) You must report if you have exceeded the 100 tpy organic HAP emissions threshold if that exceedance would make your facility subject to § 63.5805(b) or (d). Include with this report any request for an exemption under § 63.5805(e). If you receive an exemption under § 63.5805(e) and subsequently exceed the 100 tpy organic HAP emissions threshold, you must report this exceedance as required in § 63.5805(f).

(g) Each affected source that has obtained a title V operating permit pursuant to 40 CFR part 70 or 71 must report all deviations as defined in this subpart in the semiannual monitoring report required by § 70.6(a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A). If an affected source submits a compliance report pursuant to Table 14 to this subpart along with, or as part of, the semiannual monitoring report required by § 70.6(a)(3)(iii)(A) or § 71.6(a)(3)(iii)(A), and the compliance report includes all required information concerning deviations from any organic HAP emissions limitation (including any operating limit) or work practice requirement in this subpart, submission of the compliance report shall be deemed to satisfy any obligation to report the same deviations in the semiannual monitoring report. However, submission of a compliance report shall not otherwise affect any obligation the affected source may have to report deviations from permit requirements to the permitting authority.

(h) Submit compliance reports and startup, shutdown, and malfunction reports based on the requirements in Table 14 to this subpart, and not based on the requirements in § 63.999.

§ 63.5915 What records must I keep?

(a) You must keep the records listed in 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 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, design, and performance evaluations as required in § 63.10(b)(2).

(b) If you use an add-on control device, you must keep all records required in 40 CFR part 63, subpart SS, to show continuous compliance with this subpart.

(c) You must keep all data, assumptions, and calculations used to determine organic HAP emissions factors or average organic HAP contents for operations listed in Tables 3, 5, and 7 to this subpart.

(d) You must keep a certified statement that you are in compliance with the work practice requirements in Table 4 to this subpart, as applicable.

(e) For a new or existing continuous lamination/casting operation, you must keep the records listed in paragraphs (e)(1) through (4) of this section, when complying with the percent reduction and/or lbs/ton requirements specified in paragraphs (a) through (d) of § 63.5805.

(1) You must keep all data, assumptions, and calculations used to determine percent reduction and/or lbs/ton as applicable;

(2) You must keep a brief description of the rationale for the assignment of an equation or factor to each formula;

(3) When using facility-specific organic HAP emissions estimation equations or factors, you must keep all data, assumptions, and calculations used to derive the organic HAP emissions estimation equations and factors and identification and rationale for the worst-case formula; and

(4) For all organic HAP emissions estimation equations and organic HAP emissions factors, you must keep documentation that the appropriate permitting authority has approved them.

§ 63.5920 In what form and how long must I keep my records?

(a) You must maintain all applicable records in such a manner that they can be readily accessed and are suitable for inspection 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 onsite 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.

(d) You may keep records in hard copy or computer readable form including, but not limited to, paper, microfilm, computer floppy disk, magnetic tape, or microfiche.

Other Requirements and Information

§ 63.5925 What parts of the General Provisions apply to me?

Table 15 to this subpart shows which parts of the General Provisions in §§ 63.1 through 63.15 apply to you.

§ 63.5930 Who implements and enforces this subpart?

(a) This subpart can be administered by us, the EPA, or a delegated authority such as your State, local, or tribal agency. If the EPA Administrator has delegated authority to your State, local, or tribal agency, then that agency has the authority to administer 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 of 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 not delegated.

(c) The authorities that will not be delegated to State, local, or tribal agencies are listed in paragraphs (c)(1) through (4) of this section:

(1) Approval of alternatives to the organic HAP emissions standards in § 63.5805 under § 63.6(g).

(2) Approval of major changes to test methods under § 63.7(e)(2)(ii) and (f) and as defined in § 63.90.

(3) Approval of major changes to monitoring under § 63.8(f) and as defined in § 63.90.

(4) Approval of major changes to recordkeeping and reporting under § 63.10(f) and as defined in § 63.90.

§ 63.5935 What definitions apply to this subpart?

Terms used in this subpart are defined in the CAA, in 40 CFR 63.2, and in this section as follows:

Atomized mechanical application means application of resin or gel coat with spray equipment that separates the liquid into a fine mist. This fine mist may be created by forcing the liquid under high pressure through an elliptical orifice, bombarding a liquid stream with directed air jets, or a combination of these techniques.

Bulk molding compound (BMC) means a putty-like molding compound containing resin(s) in a form that is ready to mold. In addition to resins, BMC may contain catalysts, fillers, and reinforcements. Bulk molding compound can be used in compression molding and injection molding operations to manufacture reinforced plastic composites products.

BMC manufacturing means a process that involves the preparation of BMC.

Centrifugal casting means a process for fabricating cylindrical composites, such as pipes, in which composite materials are positioned inside a rotating hollow mandrel and held in place by centrifugal forces until the part is sufficiently cured to maintain its physical shape.

Charge means the amount of SMC or BMC that is placed into a compression or injection mold necessary to complete one mold cycle.

Cleaning means removal of composite materials, such as cured and uncured resin from equipment, finished surfaces, floors, hands of employees, or any other surfaces.

Clear production gel coat means an unpigmented, quick-setting resin used to improve the surface appearance and/

or performance of composites. It can be used to form the surface layer of any composites other than those used for molds in tooling operations.

Closed molding means a grouping of processes for fabricating composites in a way that HAP-containing materials are not exposed to the atmosphere except during the material loading stage (*e.g.*, compression molding, injection molding, and resin transfer molding). Processes where the mold is covered with plastic (or equivalent material) prior to resin application, and the resin is injected into the covered mold are also considered closed molding.

Composite means a shaped and cured part produced by using composite materials.

Composite materials means the raw materials used to make composites. The raw materials include styrene containing resins. They may also include gel coat, monomer, catalyst, pigment, filler, and reinforcement.

Compression molding means a closed molding process for fabricating composites in which composite materials are placed inside matched dies that are used to cure the materials under heat and pressure without exposure to the atmosphere. The addition of mold paste or in-mold coating is considered part of the closed molding process. The composite materials used in this process are generally SMC or BMC.

Compression/injection molding means a grouping of processes that involves the use of compression molding and/or injection molding.

Continuous casting means a continuous process for fabricating composites in which composite materials are placed on an in-line conveyor belt to produce cast sheets that are cured in an oven.

Continuous lamination means a continuous process for fabricating composites in which composite materials are typically sandwiched between plastic films, pulled through compaction rollers, and cured in an oven. This process is generally used to produce flat or corrugated products on an in-line conveyor.

Continuous lamination/casting means a grouping of processes that involves the use of continuous lamination and/or continuous casting.

Controlled emissions means those organic HAP emissions that are vented from a control device to the atmosphere.

Corrosion-resistant gel coat means a gel coat used on a product made with a corrosion-resistant resin that has a corrosion-resistant end-use application.

Corrosion-resistant end-use applications means applications where the product is manufactured specifically for an application that requires a level of chemical inertness or resistance to chemical attack above that required for typical reinforced plastic composites products. These applications include, but are not limited to, chemical processing and storage; pulp and paper production; sewer and wastewater treatment; power generation; potable water transfer and storage; food and drug processing; pollution or odor control; metals production and plating; semiconductor manufacturing; petroleum production, refining, and storage; mining; textile production; nuclear materials storage; swimming pools; and cosmetic production, as well as end-use applications that require high strength resins.

Corrosion-resistant industry standard includes the following standards: ASME RTP–1 or Sect. X; ASTM D5364, D3299, D4097, D2996, D2997, D3262, D3517, D3754, D3840, D4024, D4160, D4161, D4162, D4184, D3982, or D3839; ANSI/AWWA C950; UL 215, 1316 or 1746, IAPMO PS–199, or written customer requirements for resistance to specified chemical environments.

Corrosion-resistant product means a product made with a corrosion-resistant resin and is manufactured to a corrosion-resistant industry standard, or a food contact industry standard, or is manufactured for corrosion-resistant end-use applications involving continuous or temporary chemical exposures.

Corrosion-resistant resin means a resin that either:

(1) Displays substantial retention of mechanical properties when undergoing ASTM C–581 coupon testing, where the resin is exposed for 6 months or more to one of the following materials: Material with a pH $\geq$ 12.0 or $\leq$ 3.0, oxidizing or reducing agents, organic solvents, or fuels or additives as defined in 40 CFR 79.2. In the coupon testing, the exposed resin needs to demonstrate a minimum of 50 percent retention of the relevant mechanical property compared to the same resin in unexposed condition. In addition, the exposed resin needs to demonstrate an increased retention of the relevant mechanical property of at least 20 percentage points when compared to a similarly exposed general-purpose resin. For example, if the general-purpose resin retains 45 percent of the relevant property when tested as specified above, then a corrosion-resistant resin needs to retain at least 65 percent (45 percent plus 20 percent) of its property. The general-purpose resin used in the test needs to have an average molecular weight of greater than 1,000, be formulated with a 1:2 ratio of maleic anhydride to phthalic anhydride and 100 percent diethylene glycol, and a styrene content between 43 to 48 percent; or

(2) Complies with industry standards that require specific exposure testing to corrosive media, such as UL 1316, UL 1746, or ASTM F–1216.

Doctor box means the box or trough on an SMC machine into which the liquid resin paste is delivered before it is metered onto the carrier film.

Filament application means an open molding process for fabricating composites in which reinforcements are fed through a resin bath and wound onto a rotating mandrel. The materials on the mandrel may be rolled out or worked by using nonmechanical tools prior to curing. Resin application to the reinforcement on the mandrel by means other than the resin bath, such as spray guns, pressure-fed rollers, flow coaters, or brushes is not considered filament application.

Filled Resin means that fillers have been added to a resin such that the amount of inert substances is at least 10 percent by weight of the total resin plus filler mixture. Filler putty made from a resin is considered a filled resin.

Fillers means inert substances dispersed throughout a resin, such as calcium carbonate, alumina trihydrate, hydrous aluminum silicate, mica, feldspar, wollastonite, silica, and talc. Materials that are not considered to be fillers are glass fibers or any type of reinforcement and microspheres.

Fire retardant gel coat means a gel coat used for products for which low-flame spread/low-smoke resin is used.

Fluid impingement technology means a spray gun that produces an expanding non-misting curtain of liquid by the impingement of low-pressure uninterrupted liquid streams.

Food contact industry standard means a standard related to food contact application contained in Food and Drug Administration's regulations at 21 CFR 177.2420.

Gel Coat means a quick-setting resin used to improve surface appearance and/or performance of composites. It can be used to form the surface layer of any composites other than those used for molds in tooling operations.

Gel coat application means a process where either clear production, pigmented production, white/off-white or tooling gel coat is applied.

HAP-containing materials storage means an ancillary process which involves keeping HAP-containing materials, such as resins, gel coats, catalysts, monomers, and cleaners, in containers or bulk storage tanks for any

length of time. Containers may include small tanks, totes, vessels, and buckets.

High Performance gel coat means a gel coat used on products for which National Science Foundation, United States Department of Agriculture, ASTM, durability, or other property testing is required.

High strength gel coat means a gel coat applied to a product that requires high strength resin.

High strength resins means polyester resins which have a casting tensile strength of 10,000 pounds per square inch or more and which are used for manufacturing products that have high strength requirements such as structural members and utility poles.

Injection molding means a closed molding process for fabricating composites in which composite materials are injected under pressure into a heated mold cavity that represents the exact shape of the product. The composite materials are cured in the heated mold cavity.

Low Flame Spread/Low Smoke Products means products that meet the following requirements. The products must meet both the applicable flame spread requirements and the applicable smoke requirements. Interior or exterior building application products must meet an ASTM E–84 Flame Spread Index of less than or equal to 25, and Smoke Developed Index of less than or equal to 450, or pass National Fire Protection Association 286 Room Corner Burn Test with no flash over and total smoke released not exceeding 1000 meters square. Mass transit application products must meet an ASTM E–162 Flame Spread Index of less than or equal to 35 and ASTM E662 Smoke Density Ds @ 1.5 minutes less than or equal to 100 and Ds @ 4 minutes less than to equal to 200. Duct application products must meet ASTM E084 Flame Spread Index less than or equal to 25 and Smoke Developed Index less than or equal to 50 on the interior and/or exterior of the duct.

Manual resin application means an open molding process for fabricating composites in which composite materials are applied to the mold by pouring or by using hands and nonmechanical tools, such as brushes and rollers. Materials are rolled out or worked by using nonmechanical tools prior to curing. The use of pressure-fed rollers and flow coaters to apply resin is not considered manual resin application.

Mechanical resin application means an open molding process for fabricating composites in which composite materials (except gel coat) are applied to the mold by using mechanical tools such as spray guns, pressure-fed rollers, and flow coaters. Materials are rolled out or worked by using nonmechanical tools prior to curing.

Mixing means the blending or agitation of any HAP-containing materials in vessels that are 5.00 gallons (18.9 liters) or larger. Mixing may involve the blending of resin, gel coat, filler, reinforcement, pigments, catalysts, monomers, and any other additives.

Mold means a cavity or matrix into or onto which the composite materials are placed and from which the product takes its form.

Neat gel coat means the resin as purchased for the supplier, but not including any inert fillers.

Neat gel coat plus means neat gel coat plus any organic HAP-containing materials that are added to the gel coat by the supplier or the facility, excluding catalysts and promoters. Neat gel coat plus does include any additions of styrene or methyl methacrylate monomer in any form, including in catalysts and promoters.

Neat resin means the resin as purchased from the supplier, but not including any inert fillers.

Neat resin plus means neat resin plus any organic HAP-containing materials that are added to the resin by the supplier or the facility. Neat resin plus does not include any added filler, reinforcements, catalysts, or promoters. Neat resin does include any additions of styrene or methyl methacrylate monomer in any form, including in catalysts and promoters.

Nonatomized mechanical application means the use of application tools other than brushes to apply resin and gel coat where the application tool has documentation provided by its manufacturer or user that this design of the application tool has been organic HAP emissions tested, and the test results showed that use of this application tool results in organic HAP emissions that are no greater than the organic HAP emissions predicted by the applicable nonatomized application equation(s) in Table 1 to this subpart. In addition, the device must be operated according to the manufacturer's directions, including instructions to prevent the operation of the device at excessive spray pressures. Examples of nonatomized application include flow coaters, pressure fed rollers, and fluid impingement spray guns.

Noncorrosion-resistant resin means any resin other than a corrosion-resistant resin or a tooling resin.

Noncorrosion-resistant product means any product other than a corrosion-resistant product or a mold.

Non-routine manufacture means that you manufacture parts to replace worn or damaged parts of a reinforced plastic composites product, or a product containing reinforced plastic composite parts, that was originally manufactured in another facility. For a part to qualify as non-routine manufacture, it must be used for repair or replacement, and the manufacturing schedule must be based on the current or anticipated repair needs of the reinforced plastic composites product, or a product containing reinforced plastic composite parts.

Operation means a specific process typically found at a reinforced plastic composites facility. Examples of operations are noncorrosion-resistant manual resin application, corrosion-resistant mechanical resin application, pigmented gel coat application, mixing and HAP-containing materials storage.

Operation group means a grouping of individual operations based primarily on mold type. Examples are open molding, closed molding, and centrifugal casting.

Open molding means a process for fabricating composites in a way that HAP-containing materials are exposed to the atmosphere. Open molding includes processes such as manual resin application, mechanical resin application, filament application, and gel coat application. Open molding also includes application of resins and gel coats to parts that have been removed from the open mold.

Pigmented gel coat means a gel coat that has a color, but does not contain 10 percent of more titanium dioxide by weight. It can be used to form the surface layer of any composites other than those used for molds in tooling operations.

Polymer casting means a process for fabricating composites in which composite materials are ejected from a casting machine or poured into an open, partially open, or closed mold and cured. After the composite materials are poured into the mold, they are not rolled out or worked while the mold is open. The composite materials may or may not include reinforcements. Products produced by the polymer casting process include cultured marble products and polymer concrete.

Preform Injection means a form of pultrusion where liquid resin is injected to saturate reinforcements in an enclosed system containing one or more chambers with openings only large enough to admit reinforcements. Resin, which drips out of the chamber(s) during the process, is collected in closed piping or covered troughs and then into a covered reservoir for recycle.

Resin storage vessels, reservoirs, transfer systems, and collection systems are covered or shielded from the ambient air. Preform injection differs from direct die injection in that the injection chambers are not directly attached to the die.

Prepreg materials means reinforcing fabric received precoated with resin which is usually cured through the addition of heat.

Pultrusion means a continuous process for manufacturing composites that have a uniform cross-sectional shape. The process consists of pulling a fiber-reinforcing material through a resin impregnation chamber or bath and through a shaping die, where the resin is subsequently cured. There are several types of pultrusion equipment, such as open bath, resin injection, and direct die injection equipment.

Repair means application of resin or gel coat to a part to correct a defect, where the resin or gel coat application occurs after the part has gone through all the steps of its typical production process, or the application occurs outside the normal production area. For purposes of this subpart, rerouting a part back through the normal production line, or part of the normal production line, is not considered repair.

Resin transfer molding means a process for manufacturing composites whereby catalyzed resin is transferred or injected into a closed mold in which fiberglass reinforcement has been placed.

Sheet molding compound (SMC) means a ready-to-mold putty-like molding compound that contains resin(s) processed into sheet form. The molding compound is sandwiched between a top and a bottom film. In addition to resin(s), it may also contain catalysts, fillers, chemical thickeners, mold release agents, reinforcements, and other ingredients. Sheet molding compound can be used in compression molding to manufacture reinforced plastic composites products.

Shrinkage controlled resin means a resin that when promoted, catalyzed, and filled according to the resin manufacturer's recommendations demonstrates less than 0.3 percent linear shrinkage when tested according to ASTM D2566.

SMC manufacturing means a process which involves the preparation of SMC.

Tooling gel coat means a gel coat that is used to form the surface layer of molds. Tooling gel coats generally have high heat distortion temperatures, low shrinkage, high barcol hardness, and high dimensional stability.

Tooling resin means a resin that is used to produce molds. Tooling resins generally have high heat distortion temperatures, low shrinkage, high barcol hardness, and high dimensional stability.

Uncontrolled oven organic HAP emissions means those organic HAP emissions emitted from the oven through closed vent systems to the atmosphere and not to a control device. These organic HAP emissions do not include organic HAP emissions that may escape into the workplace through the opening of panels or doors on the ovens or other similar fugitive organic HAP emissions in the workplace.

Uncontrolled wet-out area organic HAP emissions means any or all of the following: Organic HAP emissions from wet-out areas that do not have any capture and control, organic HAP emissions that escape from wet-out area enclosures, and organic HAP emissions from wet-out areas that are captured by an enclosure but are vented to the atmosphere and not to an add-on control device.

Unfilled means that there has been no addition of fillers to a resin or that less than 10 percent of fillers by weight of the total resin plus filler mixture has been added.

Vapor suppressant means an additive, typically a wax, that migrates to the surface of the resin during curing and forms a barrier to seal in the styrene and reduce styrene emissions.

Vapor-suppressed resin means a resin containing a vapor suppressant added for the purpose of reducing styrene emissions during curing.

White and off-white gel coat means a gel coat that contains 10 percent of more titanium dioxide by weight.

TABLE 1 TO SUBPART WWWW OF PART 63—EQUATIONS TO CALCULATE ORGANIC HAP EMISSIONS FACTORS FOR SPECIFIC OPEN MOLDING AND CENTRIFUGAL CASTING PROCESS STREAMS

[As required in §§ 63.5796, 63.5799(a)(1) and (b), and 63.5810(a)(1), to calculate organic HAP emissions factors for specific open molding and centrifugal casting process streams you must use the equations in the following table:]

If your operation type is a new or existing . . .	And you use . . .	With . . .	Use this organic HAP Emissions Factor (EF) Equation for materials with less than 33 percent organic HAP (19 percent organic HAP for nonatomized gel coat) [1 2 3] . . .	Use this organic HAP Emissions Factor (EF) Equation for materials with 33 percent or more organic HAP (19 percent for nonatomized gel coat) [1 2 3] . . .
1. Open molding operation	a. Manual resin application	i. Nonvapor-suppressed resin.	EF = 0.126 × % HAP × 2000.	EF = ((0.286 × %HAP) − 0.0529) × 2000
		ii. Vapor-suppressed resin	EF = 0.126 × % HAP × 2000 × (1 − (0.5 × VSE factor)).	EF = ((0.286 × %HAP) − 0.0529) × 2000 × (1 − (0.5 × VSE factor))
		iii. Vacuum bagging/closed-mold curing with roll out.	EF = 0.126 × % HAP × 2000 × 0.8.	EF = ((0.286 × %HAP) − 0.0529) × 2000 × 0.8
		iv. Vacuum bagging/closed-mold curing without roll-out.	EF = (0.126 × % HAP × 2000 × 0.5.	EF = ((0.286 × %HAP) − 0.0529) × 2000 × 0.5
	b. Atomized mechanical resin application.	i. Nonvapor-suppressed resin.	EF = 0.169 × %HAP × 2000.	EF = ((0.714 × %HAP) − 0.18) × 2000
		ii. Vapor-suppressed resin	EF = 0.169 × %HAP × 2000 × (1 − (0.45 × VSE factor)).	EF = ((0.714 × %HAP) − 0.18) × 2000 × (1 − (0.45 × VSE factor))

TABLE 1 TO SUBPART WWWW OF PART 63—EQUATIONS TO CALCULATE ORGANIC HAP EMISSIONS FACTORS FOR SPECIFIC OPEN MOLDING AND CENTRIFUGAL CASTING PROCESS STREAMS—Continued

[As required in §§ 63.5796, 63.5799(a)(1) and (b), and 63.5810(a)(1), to calculate organic HAP emissions factors for specific open molding and centrifugal casting process streams you must use the equations in the following table:]

If your operation type is a new or existing . . .	And you use . . .	With . . .	Use this organic HAP Emissions Factor (EF) Equation for materials with less than 33 percent organic HAP (19 percent organic HAP for nonatomized gel coat) [1 2 3] . . .	Use this organic HAP Emissions Factor (EF) Equation for materials with 33 percent or more organic HAP (19 percent for nonatomized gel coat) [1 2 3] . . .
		iii. Vacuum bagging/closed-mold curing with roll-out.	EF = 0.169 × %HAP × 2000 × 0.85.	EF = ((0.714 × %HAP) − 0.18) × 2000 × 0.85
		iv. Vacuum bagging/closed-mold curing without roll-out.	EF = 0.169 × %HAP × 2000 × 0.55.	EF = ((0.714 × %HAP) − 0.18) × 2000 × 0.55
	c. Nonatomized mechanical resin application.	v. Nonvapor-suppressed resin.	EF = 0.107 × %HAP × 2000.	EF = ((0.157 × %HAP) − 0.0165) × 2000
		vi. Vapor-suppressed resin	EF = 0.107 × %HAP × 2000 × (1 − (0.45 × VSE factor)).	EF = ((0.157 × %HAP) − 0.0165) × 2000 × (1 − (0.45 × VSE factor))
		vii. Closed-mold curing with roll-out.	EF = 0.107 × %HAP × 2000 × 0.85.	EF = ((0.157 × %HAP) − 0.0165) × 2000 × 0.85
		viii. Vacuum bagging/closed-mold curing without roll-out.	EF = 0.107 × %HAP × 2000 × 0.55.	EF = ((0.157 × %HAP) − 0.0165) × 2000 × 0.55
	d. Atomized mechanical resin application with robotic or automated spray control [4].	Nonvapor-suppressed resin.	EF = 0.169 × %HAP × 2000 × 0.77.	EF = 0.77 × ((0.714 × %HAP) − 0.18) × 2000
	e. Filament application [5]	i. Nonvapor-suppressed resin.	EF = 0.184 × %HAP × 2000.	EF = ((0.2746 × %HAP) − 0.0298) × 2000
		ii. Vapor-suppressed resin	EF = 0.12 × %HAP × 2000	EF = ((0.2746 × %HAP) − 0.0298) × 2000 × 0.65
	f. Atomized spray gel coat application.	Nonvapor-suppressed gel coat.	EF = 0.446 × %HAP × 2000.	EF = ((1.03646 × %HAP) − 0.195) × 2000.
	g. Nonatomized spray gel coat application.	Nonvapor-suppressed gel coat.	EF = 0.185 × %HAP × 2000.	EF = ((0.4506 × %HAP) − 0.0505) × 2000.
	h. Manual gel coat application [6].	Nonvapor-suppressed gel coat.	EF = 0.126 × % HAP × 2000 (for emissions estimation only, see footnote 6).	EF = ((0.286 × %HAP) − 0.0529) × 2000 (for emissions estimation only, see footnote 6)
2. Centrifugal casting operations. [7 8].	Heated air blown through molds.	Nonvapor-suppressed resin.	EF = 0.558 × (%HAP) × 2000.	EF = 0.558 × (%HAP) × 2000.
	Vented molds, but air vented through the molds is not heated.	Nonvapor-suppressed resin.	EF = 0.026 × (%HAP) × 2000.	EF = 0.026 × (%HAP) × 2000.

Footnotes to Table 1

[1] To obtain the organic HAP emissions factor value for an operation with an add-on control device multiply the EF above by the add-on control factor calculated using Equation 1 of § 63.5810. The organic HAP emissions factors have units of lbs of organic HAP per ton of resin or gel coat applied.

[2] Percent HAP means total weight percent of organic HAP (styrene, methyl methacrylate, and any other organic HAP) in the resin or gel coat prior to the addition of fillers, catalyst, and promoters. Input the percent HAP as a decimal, *i.e.* 33 percent HAP should be input as 0.33, not 33.

[3] The VSE factor means the percent reduction in organic HAP emissions expressed as a decimal measured by the VSE test method of appendix A to this subpart.

[4] This equation is based on a organic HAP emissions factor equation developed for mechanical atomized controlled spray. It may only be used for automated or robotic spray systems with atomized spray. All spray operations using hand held spray guns must use the appropriate mechanical atomized or mechanical nonatomized organic HAP emissions factor equation. Automated or robotic spray systems using nonatomized spray should use the appropriate nonatomized mechanical resin application equation.

[5] Applies only to filament application using an open resin bath. If resin is applied manually or with a spray gun, use the appropriate manual or mechanical application organic HAP emissions factor equation.

[6] Do not use this equation for determining compliance with emission limits in Tables 3 or 5 to this subpart. To determine compliance with emission limits you must treat all gel coat as if it were applied as part of your gel coat spray application operations. If you apply gel coat by manual techniques only, you must treat the gel coat as if it were applied with atomized spray and use Equation 1.f. to determine compliance with the appropriate emission limits in Tables 3 or 5 to this subpart. To estimate emissions from manually applied gel coat, you may either include the gel coat quantities you apply manually with the quantities applied using spray, or use this equation to estimate emissions from the manually applied portion of your gel coat.

[7] These equations are for centrifugal casting operations where the mold is vented during spinning. Centrifugal casting operations where the mold is completely sealed after resin injection are considered to be closed molding operations.

[8] If a centrifugal casting operation uses mechanical or manual resin application techniques to apply resin to an open centrifugal casting mold, use the appropriate open molding equation with covered cure and no rollout to determine an emission factor for operations prior to the closing of the centrifugal casting mold. If the closed centrifugal casting mold is vented during spinning, use the appropriate centrifugal casting equation to calculate an emission factor for the portion of the process where spinning and cure occur. If a centrifugal casting operation uses mechanical or manual resin application techniques to apply resin to an open centrifugal casting mold, and the mold is then closed and is not vented, treat the entire operation as open molding with covered cure and no rollout to determine emission factors.

TABLE 2 TO SUBPART WWWW OF PART 63.—COMPLIANCE DATES FOR NEW AND EXISTING REINFORCED PLASTIC COMPOSITES FACILITIES

[As required in §§ 63.5800 and 63.5840 you must demonstrate compliance with the standards by the dates in the following table:]

If your facility is . . .	And . . .	Then you must comply by this date . . .
1. An existing source	a. Is a major source on or before the publication date of this subpart.	i. April 21, 2006, or ii. You must accept and meet an enforceable HAP emissions limit below the major source threshold prior to April 21, 2006.
2. An existing source that is an area source	Becomes a major source after the publication date of this subpart.	3 years after becoming a major source or April 21, 2006, whichever is later.
3. An existing source, and emits less than 100 tpy of organic HAP from the combination of all centrifugal casting and continuous lamination/casting operations at the time of initial compliance with this subpart.	Subsequently increases its actual organic HAP emissions to 100 tpy or more from these operations, which requires that the facility must now comply with the standards in § 63.5805(b).	3 years of the date your semi-annual compliance report indicates your facility meets or exceeds the 100 tpy threshold.
4. A new source	Is a major source at startup	Upon startup or April 21, 2003, whichever is later.
5. A new source	Is an area source at startup and becomes a major source.	Immediately upon becoming a major source.
6. A new source, and emits less than 100 tpy of organic HAP from the combination of all open molding, centrifugal casting, continuous lamination/casting, pultrusion, SMC and BMC manufacturing, and mixing operations at the time of initial compliance with this subpart.	Subsequently increases its actual organic HAP emissions to 100 tpy or more from the combination of these operations, which requires that the facility must now meet the standards in § 63.5805(d).	3 years from the date that your semi-annual compliance report indicates your facility meets or exceeds the 100 tpy threshold.

TABLE 3 TO SUBPART WWWW OF PART 63.—ORGANIC HAP EMISSIONS LIMITS FOR EXISTING OPEN MOLDING SOURCES, NEW OPEN MOLDING SOURCES EMITTING LESS THAN 100 TPY OF HAP, AND NEW AND EXISTING CENTRIFUGAL CASTING AND CONTINUOUS LAMINATION/CASTING SOURCES THAT EMIT LESS THAN 100 TPY OF HAP

[As required in §§ 63.5796, 63.5805 (a) through (c) and (g), 63.5810(a), (b), and (d), 63.5820(c), 63.5830, 63.5835(a), 63.5895(c) and (d), 63.5900(a)(2), and 63.5915(c), you must meet the appropriate organic HAP emissions limits in the following table:]

If your operation type is . . .	And you use . . .	Your organic HAP emissions limit is [1] . . .	And the highest organic HAP content for a compliant resin or gel coat is [2] . . .
1. Open molding—corrosion-resistant and/or high strength (CR/HS).	a. Mechanical resin application	112 lb/ton	46.2 with nonatomized resin application.
	b. Filament application	171 lb/ton	42.0.
	c. Manual resin application	123 lb/ton	40.0.
2. Open molding—non-CR/HS	a. Mechanical resin application	87 lb/ton	38.4 with nonatomized resin application.
	b. Filament application	188 lb/ton	45.0.
	c. Manual resin application	87 lb/ton	33.6.
3. Open molding—tooling	a. Mechanical resin application	254 lb/ton	43.0 with atomized application, 91.4 with nonatomized application.
	b. Manual resin application	157 lb/ton	45.9.
4. Open molding—low-flame spread/low-smoke products.	a. Mechanical resin application	497 lb/ton	60.0.
	b. Filament application	270 lb/ton	60.0.
	c. Manual resin application	238 lb/ton	60.0.
5. Open molding—shrinkage controlled resins.	a. Mechanical resin application	354 lb/ton	50.0.
	b. Filament application	215 lb/ton	50.0.
	c. Manual resin application	180 lb/ton	50.0.
6. Open molding—gel coat [3]	a. Tooling gel coating	437 lb/ton	40.0.
	b. White/off white pigmented gel coating.	267 lb/ton	30.0.
	c. All other pigmented gel coating	377 lb/ton	37.0.
	d. CR/HS or high performance gel coat.	605 lb/ton	48.0.
	e. Fire retardant gel coat	854 lb/ton	60.0.
	f. Clear production gel coat	522 lb/ton	44.0.

TABLE 3 TO SUBPART WWWW OF PART 63.—ORGANIC HAP EMISSIONS LIMITS FOR EXISTING OPEN MOLDING SOURCES, NEW OPEN MOLDING SOURCES EMITTING LESS THAN 100 TPY OF HAP, AND NEW AND EXISTING CENTRIFUGAL CASTING AND CONTINUOUS LAMINATION/CASTING SOURCES THAT EMIT LESS THAN 100 TPY OF HAP—Continued

[As required in §§ 63.5796, 63.5805 (a) through (c) and (g), 63.5810(a), (b), and (d), 63.5820(c), 63.5830, 63.5835(a), 63.5895(c) and (d), 63.5900(a)(2), and 63.5915(c), you must meet the appropriate organic HAP emissions limits in the following table:]

If your operation type is . . .	And you use . . .	Your organic HAP emissions limit is [1] . . .	And the highest organic HAP content for a compliant resin or gel coat is [2] . . .
7. Centrifugal casting—CR/HS [4 5] ..	N/A	25 lb/ton	48.0.
8. Centrifugal casting—non-CR/HS [4 5].	N/A	20 lb/ton	37.5.
9. Pultrusion [6]	N/A	Reduce total organic HAP emissions by at least 60 weight percent.	NA.
10. Continuous lamination/casting	N/A	Reduce total organic HAP emissions by at least 58.5 weight percent or not exceed a organic HAP emissions limit of 15.7 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.	NA.

Footnotes to Table 3

[1] Organic HAP emissions limits for open molding and centrifugal casting are expressed as lb/ton. You must be at or below these values based on a 12-month rolling average.

[2] A compliant resin or gel coat means that if its organic HAP content is used to calculate an organic HAP emissions factor, the factor calculated does not exceed the appropriate organic HAP emissions limit shown in the table.

[3] These limits are for spray application of gel coat. Manual gel coat application must be included as part of spray gel coat application for compliance purposes using the same organic HAP emissions factor equation and organic HAP emissions limit. If you only apply gel coat with manual application, treat the manually applied gel coat as if it were applied with atomized spray for compliance determinations.

[4] Centrifugal casting operations where the mold is not vented during spinning and cure are considered to be closed molding and are not subject to any emissions limit. Centrifugal casting operations where the mold is not vented during spinning and cure, and the resin is applied to the open centrifugal casting mold using mechanical or manual open molding resin application techniques are considered to be open molding operations and the appropriate open molding emission limits apply.

[5] Centrifugal casting operations where the mold is vented during spinning and the resin is applied to the open centrifugal casting mold using mechanical or manual open molding resin application techniques, use the appropriate centrifugal casting emission limit to determine compliance. Calculate your emission factor using the appropriate centrifugal casting emission factor in Table 1 to this subpart, or a site specific emission factor as discussed in § 63.5796.

[6] Pultrusion machines that produce parts with 1000 or more reinforcements and a cross sectional area of 60 inches or more are not subject to this requirement. Their requirement is the work practice of air flow management which is described in Table 4 to this subpart.

TABLE 4 TO SUBPART WWWW OF PART 63.—WORK PRACTICE STANDARDS

[As required in §§ 63.5805 (a) through (d) and (g), 63.5835(a), 63.5900(a)(3), 63.5910(c)(5), and 63.5915(d), you must meet the appropriate work practice standards in the following table:]

For . . .	You must . . .
1. A new or existing closed molding operation using compression/injection molding.	Uncover, unwrap or expose only one charge per mold cycle per compression/injection molding machine. For machines with multiple molds, one charge means sufficient material to fill all molds for one cycle. For machines with robotic loaders, no more than one charge may be exposed prior to the loader. For machines fed by hoppers, sufficient material may be uncovered to fill the hopper. Hoppers must be closed when not adding materials. Materials may be uncovered to feed to slitting machines. Materials must be recovered after slitting.
2. A new or existing cleaning operation	Not use cleaning solvents that contain HAP, except that styrene may be used as a cleaner in closed systems, and organic HAP containing cleaners may be used to clean cured resin from application equipment. Application equipment includes any equipment that directly contacts resin.
3. A new or existing materials HAP-containing materials storage operation.	Keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials. Bulk HAP-containing materials storage tanks may be vented as necessary for safety.
4. An existing or new SMC manufacturing operation.	Close or cover the resin delivery system to the doctor box on each SMC manufacturing machine. The doctor box itself may be open.
5. An existing or new SMC manufacturing operation.	Use a nylon containing film to enclose SMC.
6. An existing or new mixing or BMC manufacturing operation.	Use mixer covers with no visible gaps present in the mixer covers, except that gaps of up to 1 inch are permissible around mixer shafts and any required instrumentation.
7. An existing mixing or BMC manufacturing operation.	Close any mixer vents when actual mixing is occurring, except that venting is allowed during addition of materials, or as necessary prior to adding materials or opening the cover for safety.
8. A new or existing mixing or BMC manufacturing operation [1].	Keep the mixer covers closed while actual mixing is occurring except when adding materials or changing covers to the mixing vessels.

TABLE 4 TO SUBPART WWWW OF PART 63.—WORK PRACTICE STANDARDS—Continued

[As required in §§ 63.5805 (a) through (d) and (g), 63.5835(a), 63.5900(a)(3), 63.5910(c)(5), and 63.5915(d), you must meet the appropriate work practice standards in the following table:]

For . . .	You must . . .
9. A new or existing pultrusion operation manufacturing parts with 1,000 or more reinforcements and a cross section area of 60 square inches or more that is not subject to the 95 percent organic HAP emission reduction requirement.	i. Not allow vents from the building ventilation system, or local or portable fans to blow directly on or across the wet-out area(s), ii. Not permit point suction of ambient air in the wet-out area(s) unless that air is directed to a control device, iii. Use devices such as deflectors, baffles, and curtains when practical to reduce air flow velocity across the wet-out area(s), iv. Direct any compressed air exhausts away from resin and wet-out area(s), v. convey resin collected from drip-off pans or other devices to reservoirs, tanks, or sumps via covered troughs, pipes, or other covered conveyance that shields the resin from the ambient air, vi. Cover all reservoirs, tanks, sumps, or HAP-containing materials storage vessels except when they are being charged or filled, and vii. Cover or shield from ambient air resin delivery systems to the wet-out area(s) from reservoirs, tanks, or sumps where practical.

[1] Containers of 5 gallons or less may be open when active mixing is taking place, or during periods when they are in process (*i.e.*, they are actively being used to apply resin). For polymer casting mixing operations, containers with a surface area of 500 square inches or less may be open while active mixing is taking place.

TABLE 5 TO SUBPART WWWW OF PART 63.—ALTERNATIVE ORGANIC HAP EMISSIONS LIMITS FOR OPEN MOLDING, CENTRIFUGAL CASTING, AND SMC MANUFACTURING OPERATIONS WHERE THE STANDARD IS BASED ON A 95 PERCENT REDUCTION REQUIREMENT

[As specified in §§ 63.5796, 63.5805(b) and (d), 63.5810(a) and (b), 63.5835(a), 63.5895(c), 63.5900(a)(2), and 63.5915(c), as an alternative to the 95 percent organic HAP emissions reductions requirement, you may meet the appropriate organic HAP emissions limits in the following table:]

If your operation type is . . .	And you use . . .	LYour organic HAP emissions limit is a[1]. . .
1. Open molding—corrosion-resistant and/or high strength (CR/HS).	a. Mechanical resin application	6 lb/ton.
	b. Filament application	9 lb/ton.
	c. Manual resin application	7 lb/ton.
2. Open molding—non-CR/HS	a. mechanical resin application	13 lb/ton.
	b. Filament application	10 lb/ton.
	c. Manual resin application	5 lb/ton.
3. Open molding—tooling	a. Mechanical resin application	13 lb/ton.
	b. Manual resin application	8 lb/ton.
4. Open molding—low flame spread/low smoke products	a. Mechanical resin application	25 lb/ton.
	b. Filament application	14 lb/ton.
	c. Manual resin application	12 lb/ton.
5. Open molding—shrinkage controlled resins	a. Mechanical resin application	18 lb/ton.
	b. Filament application	11 lb/ton.
	c. Manual resin application	9 lb/ton.
6. Open molding—gel coat[2]	a. Tooling gel coating	22 lb/ton.
	b. White/off white pigmented gel coating	22 lb/ton.
	c. All other pigmented gel coating	19 lb/ton.
	d. CR/HS or high performance gel coat	31 lb/ton.
	e. Fire retardant gel coat	43 lb/ton.
	f. Clear production gel coat	27 lb/ton.
7. Centrifugal casting—CR/HS[3 4]	A vent system that moves heated air through the mold	27 lb/ton.
8. Centrifugal casting—non-CR/HS[3 4]	A vent system that moves heated air through the mold	21 lb/ton.
7. Centrifugal casting—CR/HS[3 4]	A vent system that moves ambient air through the mold	2 lb/ton.
8. Centrifugal casting—non-CR/HS[3 4]	A vent system that moves ambient air through the mold	1 lb/ton.
9. SMC Manufacturing	N/A	2.4 lb/ton.

[1] Organic HAP emissions limits for open molding and centrifugal casting expressed as lb/ton are calculated using the equations shown in Table 1 to this subpart. You must be at or below these values based on a 12-month rolling average.

[2] These limits are for spray application of gel coat. Manual gel coat application must be included as part of spray gel coat application for compliance purposes using the same organic HAP emissions factor equation and organic HAP emissions limit. If you only apply gel coat with manual application, treat the manually applied gel coat as if it were applied with atomized spray for compliance determinations.

[3] Centrifugal casting operations where the mold is not vented during spinning and cure are considered to be closed molding and are not subject to any emissions limit. Centrifugal casting operations where the mold is not vented during spinning and cure, and the resin is applied to the open centrifugal casting mold using mechanical or manual open molding resin application techniques are considered to be open molding operations and the appropriate open molding emission limits apply.

[4] Centrifugal casting operations where the mold is vented during spinning and the resin is applied to the open centrifugal casting mold using mechanical or manual open molding resin application techniques, use the appropriate centrifugal casting emission limit to determine compliance. Calculate your emission factor using the appropriate centrifugal casting emission factor in Table 1 to this subpart, or a site specific emission factor as discussed in § 63.5796.

TABLE 6 TO SUBPART WWWW OF PART 63—BASIC REQUIREMENTS FOR PERFORMANCE TESTS, PERFORMANCE EVALUATIONS, AND DESIGN EVALUATIONS FOR NEW AND EXISTING SOURCES USING ADD-ON CONTROL DEVICES

[As required in § 63.5850 you must conduct performance tests, performance evaluations, and design evaluation according to the requirements in the following table:]

For . . .	You must . . .	Using . . .	According to the following requirements . . .
1. Each enclosure used to collect and route organic HAP emissions to an add-on control device that is a PTE.	Meet the requirements for a PTE	EPA method 204 of appendix M of 40 CFR part 51.	Enclosures that meet the requirements of EPA Method 204 of appendix M of 40 CFR part 51 for a PTE are assumed to have a capture efficiency of 100%. Note that the criteria that all access doors and windows that are not treated as natural draft openings shall be closed during routine operation of the process is not intended to require that these doors and windows be closed at all times. It means that doors and windows must be closed any time that you are not actually moving parts or equipment through them. Also, any styrene retained in hollow parts and liberated outside the PTE is not considered to be a violation of the EPA Method 204 criteria.
2. Each enclosure used to collect and route organic HAP emissions to an add-on control device that is not a PTE.	a. Determine the capture efficiency of each enclosure used to capture organic HAP emissions sent to an add-on control device.	i. EPA methods 204B through E of appendix M of 40 CFR part 51, or	(1) Enclosures that do not meet the requirements for a PTE must determine the capture efficiency by constructing a temporary total enclosure according to the requirements of EPA Method 204 of appendix M of 40 CFR part 51 and measuring the mass flow rates of the organic HAP in the exhaust streams going to the atmosphere and to the control device. Test runs for EPA Methods 204B through E of appendix M of 40 CFR part 51 must be at least 3 hours.
		ii. An alternative test method that meets the requirements in 40 CFR part 51, appendix M.	(1) The alternative test method must the data quality objectives and lower confidence limit approaches for alternative capture efficiency protocols requirements contained in 40 CFR part 63 subpart KK, appendix A.
3. Each control device used to comply with a percent reduction requirement, or a organic HAP emissions limit.	Determine the control efficiency of each control device used to control organic HAP emissions.	The test methods specified in § 63.5850 to this subpart.	Testing and evaluation requirements are contained in 40 CFR part 63, subpart SS, and § 63.5850 to this subpart.
4. Determining organic HAP emission factors for any operation.	Determine the mass organic HAP emissions rate.	The test methods specified in § 63.5850 to this subpart.	Testing and evaluation requirements are contained in 40 CFR part 63, subpart SS, and § 63.5850 to this subpart.

TABLE 7 TO SUBPART WWWW OF PART 63.—OPTIONS ALLOWING USE OF THE SAME RESIN ACROSS DIFFERENT OPERATIONS THAT USE THE SAME RESIN TYPE

[As required in §§ 63.5810(a) through (d), 63.5835(a), 63.5895(c), and 63.5900(a)(2), when electing to use the same resin(s) for multiple resin application methods you may use any resin(s) with an organic HAP contents less than or equal to the values shown in the following table, or any combination of resins whose weighted average organic HAP content based on a 12-month rolling average is less than or equal to the values shown the following table:]

If your facility has the following resin type and application method . . .	The highest resin weight percent organic HAP content, or weighted average weight percent organic HAP content, you can use for . . .	Is . . .
1. CR/HS resins, centrifugal casting	a. CR/HS mechanical	48.0
	b. CR/HS filament application	48.0
	c. CR/HS manual	48.0
2. CR/HS resins, nonatomized mechanical	a. CR/HS filament application	46.2
	b. CR/HS manual	46.2
3. CR/HS resins, filament application	CR/HS manual	42.0
4. Non-CR/HS resins, filament application	a. non-CR/HS mechanical	45.0
	b. non-CR/HS manual	45.0
	c. non-CR/HS centrifugal casting	45.0
5. Non-CR/HS resins, nonatomized mechanical	a. Non-CR/HS manual	38.4
	b. non-CR/HS centrifugal casting	38.4
6. Non-CR/HS resins, centrifugal casting	Non-CR/HS manual	37.5
7. Tooling resins, nonatomized mechanical	Tooling manual	91.4
8. Tooling resins, manual	Tooling atomized mechanical	45.9

TABLE 8 TO SUBPART WWWW OF PART 63.—INITIAL COMPLIANCE WITH ORGANIC HAP EMISSIONS LIMITS

[As required in § 63.5860(a), you must demonstrate initial compliance with organic HAP emissions limits as specified in the following table:]

For . . .	That must meet the following organic HAP emissions limit . . .	You have demonstrated initial compliance if . . .
1. Open molding and centrifugal casting operations.	a. An organic HAP emissions limit shown in Tables 3 or 5 to this subpart, or an organic HAP content limit shown in Table 7 to this subpart.	i. You have met the appropriate organic HAP emissions limits for these operations as calculated using the procedures in § 63.5810 on a 12-month rolling average 1 year after the appropriate compliance date, or ii. You demonstrate by using the appropriate values in Tables 3, or 7 to this subpart that all resins and gel coats considered individually meet the appropriate organic HAP contents, or iii. You demonstrate by using the appropriate values in Table 7 to this subpart that the weighted average of all resins and gel coats for each resin type and application method meet the appropriate organic HAP contents.
2. Open molding, centrifugal casting, continuous lamination/casting, SMC and BMC manufacturing, and mixing operations.	a. Reduce total organic HAP emissions, by at least 95 percent by weight.	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 to this subpart, are reduced by at least 95 percent by weight.
3. Continuous lamination/casting operations	a. Reduce total organic HAP emissions by at least 58.5 weight percent, or.	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 to this subpart and the calculation procedures specified in §§ 63.5865 through 63.5890, are reduced by at least 58.5 percent by weight.
	b. Not exceed an HAP emissions limit of 15.7 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 to this subpart and the calculation procedures specified in §§ 63.5865 through 63.5890, do not exceed 15.7 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.

TABLE 8 TO SUBPART WWWW OF PART 63.—INITIAL COMPLIANCE WITH ORGANIC HAP EMISSIONS LIMITS—Continued

[As required in § 63.5860(a), you must demonstrate initial compliance with organic HAP emissions limits as specified in the following table:]

For . . .	That must meet the following organic HAP emissions limit . . .	You have demonstrated initial compliance if . . .
4. Continuous lamination/casting operations	a. Reduce total organic HAP emissions by at least 95 weight percent or	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 to this subpart, and the calculation procedures specified in §§ 63.5865 through 63.5890, are reduced by at least 95 percent by weight.
	b. Not exceed an organic HAP emissions limit of 1.47 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.	Total organic HAP emissions, based on the results of the capture efficiency and destruction efficiency testing specified in Table 6 and the calculation procedures specified in §§ 63.5865 through 63.5890, do not exceed 1.47 lbs of organic HAP per ton of neat resin plus and neat gel coat plus.
5. Pultrusion operations	a. Reduce total organic HAP emissions by at least 60 percent by weight.	i. Total organic HAP emissions, based on the results of the capture efficiency and add-on control device destruction efficiency testing specified in Table 6 to this subpart, are reduced by at least 60 percent by weight and ii. As part of the notification of initial compliance status, the owner/operator submits a certified statement that all pultrusion lines not controlled with an add-on control device are using direct die injection, preform injection, and/or wet-area enclosures that meet the criteria of § 63.5830.
6. Pultrusion operations	a. Reduce total organic HAP emissions by at least 95 percent by weight.	i. Total organic HAP emissions, based on the results of the capture efficiency and add-on control device destruction efficiency testing specified in Table 6 to this subpart, are reduced by at least 95 percent by weight.

TABLE 9 TO SUBPART WWWW OF PART 63.—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS

[As required in § 63.5860(a), you must demonstrate initial compliance with work practice standards as specified in the following table:]

For . . .	That must meet the following standard . . .	You have demonstrated initial compliance if . . .
1. A new or existing closed or molding operation using compression/injection molding.	Uncover, unwrap or expose only one charge per mold cycle per compression/injection molding machine. For machines with multiple molds, one charge means sufficient material to fill all molds for one cycle. For machines with robotic loaders, no more than one charge may be exposed prior to the loader. For machines fed by hoppers, sufficient material may be uncovered to fill the hopper. Hoppers must be closed when not adding materials. Materials may be uncovered to feed to slitting machines. Materials must be recovered after slitting.	The owner operator submits a certified statement in the notice of compliance status that only one charge is uncovered, unwrapped or exposed per mold cycle per compression/injection molding machine, or prior to the loader, hoppers are closed except when adding materials, and materials are recovered after slitting.
2. A new or existing cleaning operation	Not use cleaning solvents that contain HAP, except that styrene may be used in closed systems, and organic HAP containing materials may be used to clean cured resin from application equipment. Application equipment includes any equipment that directly contacts resin between storage and applying resin to the mold or reinforcement.	The owner or operator submits a certified statement in the notice of compliance status that all cleaning materials, except styrene contained in closed systems, or materials used to clean cured resin from application equipment contain no HAP.
3. A new or existing materials HAP-containing materials storage operation.	Keep containers that store HAP-containing materials closed or covered except during the addition or removal of materials. Bulk HAP-containing materials storage tanks may be vented as necessary for safety.	The owner or operator submits a certified statement in the notice of compliance status that all HAP-containing storage containers are kept closed or covered except when adding or removing materials, and that any bulk storage tanks are vented only as necessary for safety.

TABLE 9 TO SUBPART WWWW OF PART 63.—INITIAL COMPLIANCE WITH WORK PRACTICE STANDARDS—Continued

[As required in § 63.5860(a), you must demonstrate initial compliance with work practice standards as specified in the following table:]

For . . .	That must meet the following standard . . .	You have demonstrated initial compliance if . . .
4. An existing or new SMC manufacturing operation.	Close or cover the resin delivery system to the doctor box on each SMC manufacturing machine. The doctor box itself may be open.	The owner or operator submits a certified statement in the notice of compliance status that the resin delivery system is closed or covered.
5. An existing or new SMC manufacturing operation.	Use a nylon containing film to enclose SMC.	The owner or operator submits a certified statement in the notice of compliance status that a nylon-containing film is used to enclose SMC.
6. An existing or new mixing or BMC manufacturing operation.	Use mixer covers with no visible gaps present in the mixer covers, except that gaps of up to 1 inch are permissible around mixer shafts and any required instrumentation.	The owner or operator submits a certified statement in the notice of compliance status that mixer covers are closed during mixing except when adding materials to the mixers, and that gaps around mixer shafts and required instrumentation are less than 1 inch.
7. An existing mixing or BMC manufacturing operation.	Not actively vent mixers to the atmosphere while the mixing agitator is turning, except that venting is allowed during addition of materials, or as necessary prior to adding materials for safety.	The owner or operator submits a certified statement in the notice of compliance status that mixers are not actively vented to the atmosphere when the agitator is turning, except when adding materials or as necessary for safety.
8. A new or existing mixing or BMC manufacturing operation.	Keep the mixer covers closed during mixing except when adding materials to the mixing vessels.	The owner or operator submits a certified statement in the notice of compliance status that mixers closed except when adding materials to the mixing vessels.
9. A new or existing pultrusion operation manufacturing parts with 1000 or more reinforcements and a cross section area of 60 square inches or more that is not subject to the 95 percent organic HAP emission reduction requirement.	i. Not allow vents from the building ventilation system, or local or portable fans to blow directly on or across the wet-out area(s), ii. not permit point suction of ambient air in the wet-out area(s) unless that air is directed to a control device, iii. use devices such as deflectors, baffles, and curtains when practical to reduce air flow velocity across wet-out area(s), iv. direct any compressed air exhausts away from resin and wet-out area(s), v. convey resin collected from drip-off pans or other devices to reservoirs, tanks, or sumps via covered troughs, pipes, or other covered conveyance that shields the resin from the ambient air, vi. cover all reservoirs, tanks, sumps, or HAP-containing materials storage vessels except when they are being charged or filled, and vii. cover or shield from ambient air resin delivery systems to the wet-out area(s) from reservoirs, tanks, or sumps where practical.	The owner or operator submits a certified statement in the notice of compliance status that they have complied with all the requirements listed in the 9.i through 9.vii.

TABLE 10 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION LINES AND CONTINUOUS CASTING LINES COMPLYING WITH A PERCENT REDUCTION LIMIT ON A PER LINE BASIS

[As required in § 63.5865(a), in order to comply with a percent reduction limit for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each line where the wet-out area . . .	And the oven . . .	You must determine . . .
1. Has an enclosure that is not a permanent total enclosure (PTE) and the captured organic HAP emissions are controlled by an add-on control device.	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. The capture efficiency of the wet-out area enclosure, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.

TABLE 10 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION LINES AND CONTINUOUS CASTING LINES COMPLYING WITH A PERCENT REDUCTION LIMIT ON A PER LINE BASIS—Continued

[As required in § 63.5865(a), in order to comply with a percent reduction limit for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each line where the wet-out area . . .	And the oven . . .	You must determine . . .
2. Has an enclosure that is a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. That the wet-out area enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.
3. Is uncontrolled	a. Is controlled by an add-on control device	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual uncontrolled oven organic HAP emissions, iii. Annual controlled oven organic HAP emissions, iv. The capture efficiency of the oven, v. the destruction efficiency of the add-on control device, and vi. the amount of neat resin plus and neat gel coat plus applied.
4. Has an enclosure that is not a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is controlled by an add-on control device	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. Annual controlled oven organic HAP emissions; v. The capture efficiency of the wet-out area enclosure, vi. Inlet organic HAP emissions to the add-on control device, vii. Outlet organic HAP emissions from the add-on control device, and viii. The amount of neat resin plus and neat gel coat plus applied.
5. Has an enclosure that is a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is controlled by an add-on control device	i. That the wet-out area enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE, ii. The capture efficiency of the oven, and iii. The destruction efficiency of the add-on control device.

TABLE 11 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION AND CONTINUOUS CASTING LINES COMPLYING WITH A PERCENT REDUCTION LIMIT OR A LBS/TON LIMIT ON AN AVERAGING BASIS

[As required in § 63.5865, in order to comply with a percent reduction limit or a lbs/ton limit on an averaging basis for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each . . .	That . . .	You must determine . . .
1. Wet-out area	Is uncontrolled	Annual uncontrolled wet-out area organic HAP emissions.
2. Wet-out area	a. Has an enclosure that is not a PTE	i. The capture efficiency of the enclosure, and ii. Annual organic HAP emissions that escape the enclosure.
3. Wet-out area	Has an enclosure that is a PTE	That the enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE.
4. Oven	Is uncontrolled	Annual uncontrolled oven organic HAP emissions.

TABLE 11 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION AND CONTINUOUS CASTING LINES COMPLYING WITH A PERCENT REDUCTION LIMIT OR A LBS/TON LIMIT ON AN AVERAGING BASIS—Continued

[As required in § 63.5865, in order to comply with a percent reduction limit or a lbs/ton limit on an averaging basis for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each . . .	That . . .	You must determine . . .
5. Line	a. Is controlled or uncontrolled	i. The amount of neat resin plus applied, and ii. The amount of neat gel coat plus applied.
6. Add-on control device		i. Total annual inlet organic HAP emissions, and total annual outlet organic HAP emissions.

TABLE 12 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION LINES AND CONTINUOUS CASTING LINES COMPLYING WITH A LBS/TON ORGANIC HAP EMISSIONS LIMIT ON A PER LINE BASIS

[As required in § 63.5865(b), in order to comply with a lbs/ton organic HAP emissions limit for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each line where the wet- out area . . .	And the oven . . .	You must determine . . .
1. Is uncontrolled	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual uncontrolled oven organic HAP emissions, and iii. Annual neat resin plus and neat gel coat plus applied.
2. Has an enclosure that is not a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. The capture efficiency of the wet-out area enclosure, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.
3. Has an enclosure that is a PTE, and the captured organic HAP emissions are controlled by an add-on control device.	a. Is uncontrolled	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions, iv. That the wet-out area enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.
4. Is uncontrolled	a. Is controlled by an add-on control device	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual uncontrolled oven organic HAP emissions, iii. Annual controlled oven organic HAP emissions, iv. The capture efficiency of the oven, v. The destruction efficiency of the add-on control device, and vi. The amount of neat resin plus and neat gel coat plus applied.
5. Has an enclosure that is not a PTE and the captured organic HAP emissions are controlled by an add-on control device.	a. Is controlled by an add-on control device	i. Annual uncontrolled wet-out area organic HAP emissions, ii. Annual controlled wet-out area organic HAP emissions, iii. Annual uncontrolled oven organic HAP emissions,

TABLE 12 TO SUBPART WWWW OF PART 63.—DATA REQUIREMENTS FOR NEW AND EXISTING CONTINUOUS LAMINATION LINES AND CONTINUOUS CASTING LINES COMPLYING WITH A LBS/TON ORGANIC HAP EMISSIONS LIMIT ON A PER LINE BASIS—Continued

[As required in § 63.5865(b), in order to comply with a lbs/ton organic HAP emissions limit for continuous lamination lines and continuous casting lines you must determine the data in the following table:]

For each line where the wet- out area . . .	And the oven . . .	You must determine . . .
		iv. Annual controlled oven organic HAP emissions, v. The capture efficiency of the wet-out area enclosure, vi. The capture efficiency of the oven, vii. The destruction efficiency of the add-on control device, and viii. The amount of neat resin plus and neat gel coat plus applied.
6. Has an enclosure that is a PTE, and the captured organic HAP emissions are controlled by add-on control device.	a. Is controlled by an add-on control device ...	i. That the wet-out area enclosure meets the requirements of EPA Method 204 of appendix M to 40 CFR part 51 for a PTE, ii. The capture efficiency of the oven, iii. Inlet organic HAP emissions to the an add-on control device, and iv. Outlet organic HAP emissions from the add-on control device.

TABLE 13 TO SUBPART WWWW OF PART 63.—APPLICABILITY AND TIMING OF NOTIFICATIONS

[As required in § 63.5905(a), you must determine the applicable notifications and submit them by the dates shown in the following table:]

If your facility . . .	You must submit . . .	By this date . . .
1. Is an existing source subject to this subpart	An Initial Notification containing the information specified in § 63.9(b)(2).	No later than the dates specified in § 63.9(b)(2).
2. Is a new source subject to this subpart	The notifications specified in § 63.9(b)(4) and (5).	No later than the dates specified § 63.9(b)(4) and (5).
3. Qualifies for a compliance extension as specified in § 63.9(c).	A request for a compliance extension as specified in § 63.9(c).	No later than the dates specified in § 63.6(i).
4. Is complying with organic HAP emissions limit averaging provisions.	A Notification of Compliance Status as specified in § 63.9(h).	No later than 1 year plus 30 days after your facility's compliance date.
5. Is complying with organic HAP content limits, application equipment requirements, or organic HAP emissions limit other than organic HAP emissions limit averaging.	A Notification of Compliance Status as specified in § 63.9(h).	No later than 30 calendar days after your facility's compliance date.
6. Is complying by using an add-on control device.	a. A notification of intent to conduct a performance test as specified in § 63.9(e).	No later than the date specified in § 63.9(e).
	b. A notification of the date for the CMS performance evaluation as specified in § 63.9(g).	The date of submission of notification of intent to conduct a performance test.
	c. A Notification of Compliance Status as specified in § 63.9(h).	No later than 60 calendar days after the completion of the add-on control device performance test and CMS performance evaluation.

TABLE 14 TO SUBPART WWWW OF PART 63.—REQUIREMENTS FOR REPORTS

[As required in § 63.5910(a), (b), (g), and (h), you must submit reports on the schedule shown in the following table:]

You must submit a(n)	The report must contain . . .	You must submit the report . . .
1. Compliance report	a. A statement that there were no deviations during that reporting period if there were no deviations from any emission limitations (emission limit, operating limit, opacity limit, and visible emission limit) that apply to you and there were no deviations from the requirements for work practice standards in Table 4 to this subpart that apply to you. If there were no periods during which the CMS, including CEMS, and operating parameter monitoring systems, was out of control as specified in § 63.8(c)(7), the report must also contain a statement that there were no periods during which the CMS was out of control during the reporting period.	Semiannually according to the requirements in § 63.5910(b).

TABLE 14 TO SUBPART WWWW OF PART 63.—REQUIREMENTS FOR REPORTS—Continued

[As required in § 63.5910(a), (b), (g), and (h), you must submit reports on the schedule shown in the following table:]

You must submit a(n)	The report must contain . . .	You must submit the report . . .
	b. The information in § 63.5910(d) if you have a deviation from any emission limitation (emission limit, operating limit, or work practice standard) during the reporting period. If there were periods during which the CMS, including CEMS, and operating parameter monitoring systems, was out of control, as specified in § 63.8(c)(7), the report must contain the information in § 63.5910(e).	Semiannually according to the requirements in § 63.5910(b).
	c. The information in § 63.10(d)(5)(i) if you had a startup, shutdown or malfunction during the reporting period, and you took actions consistent with your startup, shutdown, and malfunction plan.	Semiannually according to the requirements in § 63.5910(b).
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	By fax or telephone within 2 working days after starting actions inconsistent with the plan.
	b. The information in § 63.10(d)(5)(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)).

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.1(a)(1)	General applicability of the general provisions.	Yes	Additional terms defined in subpart WWWW of Part 63, when overlap between subparts A and WWWW of Part 63 of this part, subpart WWWW of Part 63 takes precedence.
§ 63.1(a)(2) through (4)	General applicability of the general provisions.	Yes.	
§ 63.1(a)(5)	Reserved	No.	
§ 63.1(a)(6)	General applicability of the general provisions.	Yes.	
§ 63.1(a)(7) through (9)	Reserved	No.	
§ 63.1(a)(10) through (14)	General applicability of the general provisions.	Yes.	
§ 63.1(b)(1)	Initial applicability determination	Yes	Subpart WWWW of Part 63 clarifies the applicability in§§ 63.5780 and 63.5785.
§ 63.1(b)(2)	Reserved	No..	
§ 63.1(b)(3)	Record of the applicability determination	Yes.	
§ 63.1(c)(1)	Applicability of this part after a relevant standard has been set under this part.	Yes	Subpart WWWW of Part 63 clarifies the applicability of each paragraph of subpart A to sources subject to subpart WWWW of Part 63.
§ 63.1(c)(2)	Title V operating permit requirement	Yes	All major affected sources are required to obtain a title V operating permit. Area sources are not subject to subpart WWWW of Part 63.
§ 63.1(c)(3) and (4)	Reserved	No.	
§ 63.1(c)(5)	Notification requirements for an area source that increases HAP emissions to major source levels.	Yes.	
§ 63.1(d)	Reserved	No.	
§ 63.1(e)	Applicability of permit program before a relevant standard has been set under this part.	Yes.	
§ 63.2	Definitions	Yes	Subpart WWWW of Part 63 defines terms in § 63.5935. When overlap between subparts A and WWWW of Part 63 occurs, you must comply with the subpart WWWW of Part 63 definitions, which take precedence over the subpart A definitions.

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63—Continued

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.3	Units and abbreviations	Yes	Other units and abbreviations used in subpart WWWW of Part 63 are defined in subpart WWWW of Part 63.
§ 63.4	Prohibited activities and circumvention	Yes	§ 63.4(a)(3) through (5) is reserved and does not apply.
§ 63.5(a)(1) and (2)	Applicability of construction and reconstruction.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(b)(1)	Relevant standards for new sources upon construction.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(b)(2)	Reserved	No.	
§ 63.5(b)(3)	New construction/reconstruction	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(b)(4)	Construction/reconstruction notification	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(b)(5)	Reserved	No.	
§ 63.5(b)(6)	Equipment addition or process change	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(c)	Reserved	No.	
§ 63.5(d)(1)	General application for approval of construction or reconstruction.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.5(d)(2)	Application for approval of construction	Yes.	
§ 63.5(d)(3)	Application for approval of reconstruction	No.	
§ 63.5(d)(4)	Additional information	Yes.	
§ 63.5(e)(1) through (5)	Approval of construction or reconstruction.	Yes.	
§ 63.5(f)(1) and (2)	Approval of construction or reconstruction based on prior State preconstruction review.	Yes.	
§ 63.6(a)(1)	Applicability of compliance with standards and maintenance requirements.	Yes.	
§ 63.6(a)(2)	Applicability of area sources that increase HAP emissions to become major sources.	Yes.	
§ 63.6(b)(1) through (5)	Compliance dates for new and reconstructed sources.	Yes	Subpart WWWW of Part 63 clarifies compliance dates in § 63.5800.
§ 63.6(b)(6)	Reserved	No.	
§ 63.6(b)(7)	Compliance dates for new operations or equipment that cause an area source to become a major source.	Yes	New operations at an existing facility are not subject to new source standards.
§ 63.6(c)(1) and (2)	Compliance dates for existing sources	Yes	Subpart WWWW of Part 63 clarifies compliance dates in § 63.5800.
§ 63.6(c)(3) and (4)	Reserved	No.	
§ 63.6(c)(5)	Compliance dates for existing area sources that become major.	Yes	Subpart WWWW of Part 63 clarifies compliance dates in § 63.5800.
§ 63.6(d)	Reserved	No.	
§ 63.6(e)(1) and (2)	Operation & maintenance requirements	Yes.	
§ 63.6(e)(3)	Startup, shutdown, and malfunction plan and recordkeeping.	Yes	Subpart WWWW of Part 63 requires a startup, shutdown, and malfunction plan only for sources using add-on controls.
§ 63.6(f)(1)	Compliance except during periods of startup, shutdown, and malfunction.	No	Subpart WWWW of Part 63 requires compliance during periods of startup, shutdown, and malfunction, except startup, shutdown, and malfunctions for sources using add-on controls.
§ 63.6(f)(2) and (3)	Methods for determining compliance	Yes.	
§ 63.6(g)(1) through (3)	Alternative standard	Yes.	
§ 63.6(h)	Opacity and visible emission Standards	No	Subpart WWWW of Part 63 does not contain opacity or visible emission standards.
§ 63.6(i)(1) through (14)	Compliance extensions	Yes.	

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63—Continued

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.6(i)(15)	Reserved	No.	
§ 63.6(i)(16)	Compliance extensions	Yes.	
§ 63.6(j)	Presidential compliance exemption	Yes.	
§ 63.7(a)(1)	Applicability of performance testing requirements.	Yes.	
§ 63.7(a)(2)	Performance test dates	No	Subpart WWWW of Part 63initial compliance requirements are in § 63.5840.
§ 63.7(a)(3)	CAA Section 114 authority	Yes.	
§ 63.7(b)(1)	Notification of performance test	Yes.	
§ 63.7(b)(2)	Notification rescheduled performance test.	Yes.	
§ 63.7(c)	Quality assurance program, including test plan.	Yes	Except that the test plan must be submitted with the notification of the performance test.
§ 63.7(d)	Performance testing facilities	Yes.	
§ 63.7(e)	Conditions for conducting performance tests.	Yes	Performance test requirements are contained in § 63.5850. Additional requirements for conducting performance tests for continuous lamination/casting are included in § 63.5870.
§ 63.7(f)	Use of alternative test method	Yes.	
§ 63.7(g)	Performance test data analysis, recordkeeping, and reporting.	Yes.	
§ 63.7(h)	Waiver of performance tests	Yes.	
§ 63.8(a)(1) and (2)	Applicability of monitoring requirements	Yes.	
§ 63.8(a)(3)	Reserved	No.	
§ 63.8(a)(4)	Monitoring requirements when using flares.	Yes.	
§ 63.8(b)(1)	Conduct of monitoring exceptions	Yes.	
§ 63.8(b)(2) and (3)	Multiple effluents and multiple monitoring systems.	Yes.	
§ 63.8(c)(1)	Compliance with CMS operation and maintenance requirements.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(c)(2) and (3)	Monitoring system installation	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(c)(4)	CMS requirements	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(c)(5)	Continuous Opacity Monitoring System (COMS) minimum procedures.	No	Subpart WWWW of Part 63 does not contain opacity standards.
§ 63.8(c)(6) through (8)	CMS calibration and periods CMS is out of control.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(d)	CMS quality control program, including test plan and all previous versions.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(1)	Performance evaluation of CMS	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(2)	Notification of performance evaluation	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(3) and (4)	CMS requirements/alternatives	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(5)(i)	Reporting performance evaluation results	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(e)(5)(ii)	Results of COMS performance evaluation.	No	Subpart WWWW of Part 63 does not contain opacity standards.
§ 63.8(f)(1) through (3)	Use of an alternative monitoring method	Yes.	
§ 63.8(f)(4)	Request to use an alternative monitoring method.	Yes.	
§ 63.8(f)(5)	Approval of request to use an alternative monitoring method.	Yes.	

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63—Continued

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.8(f)(6)	Request for alternative to relative accuracy test and associated records.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.8(g)(1) through (5)	Data reduction	Yes.	
§ 63.9(a)(1) through (4)	Notification requirements and general information.	Yes.	
§ 63.9(b)(1)	Initial notification applicability	Yes.	
§ 63.9(b)(2)	Notification for affected source with initial startup before effective date of standard.	Yes.	
§ 63.9(b)(3)	Reserved	No.	
§ 63.9(b)(4)(i)	Notification for a new or reconstructed major affected source with initial startup after effective date for which an application for approval of construction or reconstruction is required.	Yes.	
§ 63.9(b)(4)(ii) through (iv)	Reserved	No.	
§ 63.9(b)(4)(v)	Notification for a new or reconstructed major affected source with initial startup after effective date for which an application for approval of construction or reconstruction is required.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.9(b)(5)	Notification that you are subject to this subpart for new or reconstructed affected source with initial startup after effective date and for which an application for approval of construction or reconstruction is not required.	Yes	Existing facilities do not become reconstructed under subpart WWWW of Part 63.
§ 63.9(c)	Request for compliance extension	Yes.	
§ 63.9(d)	Notification of special compliance requirements for new source.	Yes.	
§ 63.9(e)	Notification of performance test	Yes.	
§ 63.9(f)	Notification of opacity and visible emissions observations.	No	Subpart WWWW of Part 63 does not contain opacity or visible emission standards.
§ 63.9(g)(1)	Additional notification requirements for sources using CMS.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.9(g)(2)	Notification of compliance with opacity emission standard.	No	Subpart WWWW of Part 63 does not contain opacity emission standards.
§ 63.9(g)(3)	Notification that criterion to continue use of alternative to relative accuracy testing has been exceeded.	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.9(h)(1) through (3)	Notification of compliance status	Yes.	
§ 63.9(h)(4)	Reserved	No.	
§ 63.9(h)(5) and (6)	Notification of compliance status	Yes.	
§ 63.9(i)	Adjustment of submittal deadlines	Yes.	
§ 63.9(j)	Change in information provided	Yes.	
§ 63.10(a)	Applicability of recordkeeping and reporting.	Yes.	
§ 63.10(b)(1)	Records retention	Yes.	
§ 63.10(b)(2)(i) through (v)	Records related to startup, shutdown, and malfunction.	Yes	Only applies to facilities that use an add-on control device.
§ 63.10(b)(2)(vi) through (xi)	CMS records, data on performance tests, CMS performance evaluations, measurements necessary to determine conditions of performance tests, and performance evaluations.	Yes.	
§ 63.10(b)(2)(xii)	Record of waiver of recordkeeping and reporting.	Yes.	
§ 63.10(b)(2)(xiii)	Record for alternative to the relative accuracy test.	Yes.	
§ 63.10(b)(2)(xiv)	Records supporting initial notification and notification of compliance status.	Yes.	
§ 63.10(b)(3)	Records for applicability determinations	Yes.	
§ 63.10(c)(1)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.

TABLE 15 TO SUBPART WWWW OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS (SUBPART A) TO SUBPART WWWW OF PART 63—Continued

[As specified in § 63.5925, the parts of the General Provisions which apply to you are shown in the following table:]

The general provisions reference . . .	That addresses . . .	And applies to subpart WWWW of part 63 . . .	Subject to the following additional information . . .
§ 63.10(c)(2) through (4)	Reserved	No.	
§ 63.10(c)(5) through (8)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.10(c)(9)	Reserved	No.	
§ 63.10(c)(10) through (15)	CMS records	Yes	This section applies if you elect to use a CMS to demonstrate continuous compliance with an emission limit.
§ 63.10(d)(1)	General reporting requirements	Yes.	
§ 63.10(d)(2)	Report of performance test results	Yes.	
§ 63.10(d)(3)	Reporting results of opacity or visible emission observations.	No	Subpart WWWW of Part 63 does not contain opacity or visible emission standards.
§ 63.10(d)(4)	Progress reports as part of extension of compliance.	Yes.	
§ 63.10(d)(5)	Startup, shutdown, and malfunction reports.	Yes	Only applies if you use an add-on control device.
§ 63.10(e)(1) through (3)	Additional reporting requirements for CMS.	Yes	This section applies if you have an add-on control device and elect to use a CEM to demonstrate continuous compliance with an emission limit.
§ 63.10(e)(4)	Reporting COMS data	No	Subpart WWWW of Part 63 does not contain opacity standards.
§ 63.10(f)	Waiver for recordkeeping or reporting	Yes.	
§ 63.11	Control device requirements	Yes	Only applies if you elect to use a flare as a control device.
§ 63.12	State authority and delegations	Yes.	
§ 63.13	Addresses of State air pollution control agencies and EPA Regional Offices.	Yes.	
§ 63.14	Incorporations by reference	Yes.	
§ 63.15	Availability of information and confidentiality.	Yes.	

Appendix A to Subpart WWWW—Test Method for Determining Vapor Suppressant Effectiveness

1. Scope and Application

1.1 *Applicability.* If a facility is using vapor suppressants to reduce hazardous air pollutant (HAP) emissions, the organic HAP emission factor equations in Table 1 to this subpart require that the vapor suppressant effectiveness factor be determined. The vapor suppressant effectiveness factor is then used as one of the inputs into the appropriate organic HAP emission factor equation. The vapor suppressant effectiveness factor test is not intended to quantify overall volatile emissions from a resin, nor to be used as a stand-alone test for emissions determination. This test is designed to evaluate the performance of film forming vapor suppressant resin additives. The results of this test are used only in combination with the organic HAP emissions factor equations in Table 1 to this subpart to generate emission factors.

1.1.1 The open molding process consists of application of resin and reinforcements to the mold surface, followed by a manual rollout process to consolidate the laminate, and the curing stage where the laminate surface is not disturbed. Emission studies have shown that approximately 50 percent to 55 percent of the emissions occur while the resin is being applied to the mold. Vapor suppressants have little effect during this portion of the lamination process, but can have a significant effect during the curing stage. Therefore, if a suppressant is 100 percent effective, the overall emissions from the process would be reduced by 45 percent to 50 percent, representing the emissions generated during the curing stage. In actual practice, vapor suppressant effectiveness will be less than 100 percent and the test results determine the specific effectiveness in terms of the vapor suppressant effectiveness factor. This factor represents the effectiveness of a specific combination of suppressant additive and resin formulation.

1.1.2 A resin manufacturer may supply a molder with a vapor-suppressed resin, and employ this test to provide the molder with the vapor suppressant effectiveness factor for that combination of resin and vapor suppressant. The factor qualifies the effectiveness of the vapor suppressant when the resin is tested in the specific formulation supplied to the molder. The addition of fillers or other diluents by the molder may impact the effectiveness of the vapor suppressant. The formulation, including resin/glass ratio and filler content, used in the test should be similar to the formulation to be used in production. The premise of this method is to compare laminate samples made with vapor suppressant additive and made without the additive. The difference in emissions between the two yields the vapor suppressant effectiveness factor.

1.1.3 The method uses a mass balance determination to establish the relative loss of the volatile component from unsaturated polyester or vinyl ester resins, with and without vapor suppressant additives. The effectiveness of a specific vapor suppressant and resin mixture is determined by comparing the relative volatile weight losses from vapor suppressed and non-suppressed resins. The volatile species are not separately analyzed. While the species contained in the volatile component are not determined, an extended listing of potential monomer that may be contained in unsaturated polyester or vinyl ester resins is provided in Table 1.1. However, most polyester and vinyl ester resin formulations presently used by the composites industry only contain styrene monomer.

TABLE 1.1.—LIST OF MONOMERS POTENTIALLY PRESENT IN UNSATURATED POLYESTER/VINYL ESTER RESINS

Monomer	CAS No.
Styrene	100–42–5.
Vinyl toluene	25013–15–4.
Methyl methacrylate	80–62–6.
Alpha methyl styrene	98–83–9.

TABLE 1.1.—LIST OF MONOMERS POTENTIALLY PRESENT IN UNSATURATED POLYESTER/VINYL ESTER RESINS—Continued

Monomer	CAS No.
Para methyl styrene	Vinyl toluene isomer.
Chlorostyrene	1331–28–8.
Diallyl phthalate	131–17–9.
Other volatile monomers	Various.

2. Summary of Method

2.1 Differences in specific resin and suppressant additive chemistry affect the performance of a vapor suppressant. The purpose of this method is to quantify the effectiveness of a specific combination of vapor suppressant and unsaturated polyester or vinyl ester resin as they are to be used in production. This comparative test quantifies the loss of volatiles from a fiberglass reinforced laminate during the roll-out and curing emission phases, for resins formulated with and without a suppressant additive. A criterion for this method is the testing of a non-vapor suppressed resin system and testing the same resin with a vapor suppressant. The two resins are as identical as possible with the exception of the addition of the suppressant to one. The exact formulation used for the test will be determined by the in-use production requirements. Each formulation of resin, glass, fillers, and additives is developed to meet particular customer and or performance specifications.

2.2 The result of this test is used as an input factor in the organic HAP emissions factor equations in Table 1 to this subpart, which allows these equations to predict emissions from a specific combination of resin and suppressant. This test does not provide an emission rate for the entire lamination process.

3. Definitions and Acronyms

3.1 Definitions

3.1.1 *Vapor suppressant.* An additive that inhibits the evaporation of volatile components in unsaturated polyester or vinyl ester resins.

3.1.2 *Unsaturated polyester resin.* A thermosetting resin commonly used in composites molding.

3.1.3 *Unsaturated vinyl ester resin.* A thermosetting resin used in composites molding for corrosion resistant and high performance applications.

3.1.4 *Laminate.* A combination of fiber reinforcement and a thermoset resin.

3.1.5 *Chopped strand mat.* Glass fiber reinforcement with random fiber orientation.

3.1.6 *Initiator.* A curing agent added to an unsaturated polyester or vinyl ester resin.

3.1.7 *Resin application roller.* A tool used to saturate and compact a wet laminate.

3.1.8 *Gel time.* The time from the addition of initiator to a resin to the state of resin gelation.

3.1.9 *Filled resin system.* A resin, which includes the addition of inert organic or inorganic materials to modify the resin properties, extend the volume and to lower the cost. Fillers include, but are not limited to; mineral particulates; microspheres; or organic particulates. This test is not intended to be used to determine the vapor suppressant effectiveness of a filler.

3.1.10 *Material safety data sheet.* Data supplied by the manufacturer of a chemical product, listing hazardous chemical components, safety precautions, and required personal protection equipment for a specific product.

3.1.11 *Tare(ed).* Reset a balance to zero after a container or object is placed on the balance; that is to subtract the weight of a container or object from the balance reading so as to weigh only the material placed in the container or on the object.

3.1.12 *Percent glass.* The specified glass fiber weight content in a laminate. It is usually determined by engineering requirements for the laminate.

3.2 Acronyms:

3.2.1 *VS*—vapor suppressed or vapor suppressant.

3.2.2 *NVS*—non-vapor suppressed.

3.2.3 *VSE*—vapor suppressant effectiveness.

3.2.4 *VSE Factor*—vapor suppressant effectiveness, factor used in the equations in Table 1 to this subpart.

3.2.5 *CSM*—chopped strand mat.

3.2.6 *MSDS*—material safety data sheet.

4. Interferences

There are no identified interferences which affect the results of this test.

5. Safety

Standard laboratory safety procedures should be used when conducting this test. Refer to specific MSDS for handling precautions.

6. Equipment and Supplies

Note: Mention of trade names or specific products or suppliers does not constitute an endorsement by the Environmental Protection Agency.

6.1 Required Equipment.

6.1.1 Balance enclosure.[1]

6.1.2 Two (2) laboratory balances—accurate to ±0.01g.[2]

6.1.3 Stop watch or balance data recording output to data logger with accuracy ±1 second.[3]

6.1.4 Thermometer—accurate to ±2.0°F(±1.0°C).[4]

6.1.5 A lipped pan large enough to hold the cut glass without coming into contact with the vertical sides, *e.g.* a pizza pan.[5]

6.1.6 Mylar film sufficient to cover the bottom of the pan.[6]

6.1.7 Tape to keep the Mylar from shifting in the bottom of the pan.[7]

6.1.8 Plastic tri-corner beakers of equivalent—250 ml to 400 ml capacity.[8]

6.1.9 Eye dropper or pipette.[9]

6.1.10 Disposable resin application roller, 3/16″–3/4″ diameter × 3″–6″ roller length.[10]

6.1.11 Hygrometer or psychrometer[11] accurate to ±5 percent

6.1.12 Insulating board, (Teflon, cardboard, foam board etc.) to prevent the balance from becoming a heat sink.[12]

6.2 Optional Equipment.

6.2.1 Laboratory balance—accurate to ±.01g with digital output, such as an RS–232 bi-directional interface[13] for use with automatic data recording devices.

6.2.2 Computer with recording software configured to link to balance digital output. Must be programmed to record data at the minimum intervals required for manual data acquisition.

6.3 Supplies.

6.3.1 Chopped strand mat—1.5 oz/ft.^{2}[14]

7. Reagents and Standards

7.1 *Initiator.* The initiator type, brand, and concentration will be specified by resin manufacturer, or as required by production operation.

7.2 Polyester or vinyl ester resin.

7.3 Vapor suppressant additive.

8. Sample Collection, Preservation, and Storage

This test method involves the immediate recording of data during the roll out and curing phases of the lamination process during each test run. Samples are neither collected, preserved, nor stored.

9. Quality Control

Careful attention to the prescribed test procedure, routing equipment calibration, and replicate testing are the quality control activities for this test method. Refer to the procedures in section 11. A minimum of six test runs of a resin system without a suppressant and six test runs of the same resin with a suppressant shall be performed for each resin and suppressant test combination.

10. Calibration and Standardization

10.1 The laboratory balances, stopwatch, hygrometer and thermometer shall be maintained in a state of calibration prior to testing and thereafter on a scheduled basis as determined by the testing laboratory. This shall be accomplished by using certified calibration standards.

10.2 Calibration records shall be maintained for a period of 3 years.

11. Test Procedure

11.1 Test Set-up.

11.1.1 The laboratory balance is located in an enclosure to prevent fluctuations in balance readings due to localized air movement. The front of enclosure is open to permit work activity, but positioned so that local airflow will not effect balance readings. The ambient temperature is determined by suspending the thermometer at a point inside the enclosure.

11.1.2 The bottom of the aluminum pan is covered with the Mylar film. The film is held in position with tape or by friction between the pan and the film.

11.1.3 The resin and pan are brought to room temperature. This test temperature must be between 70°F and 80°F. The testing temperature cannot vary more than ±2°F during the measurement of test runs. Temperature shall be recorded at the same time weight is recorded on suppressed and non-suppressed test data sheets, shown in Table 17.1.

11.1.4 The relative humidity may not change more than ±15 percent during the test runs. This is determined by recording the relative humidity in the vicinity of the test

chamber at the beginning and end of an individual test run. This data is recorded on the test data sheets shown in Table 17.1.

11.1.5 Two plies of nominal 1.5 oz/ft^2 chopped strand mat (CSM) are cut into a square or rectangle with the minimum surface area of 60 square inches (*i.e.* a square with a side dimension of 7.75 inches).

11.1.6 The appropriate resin application roller is readily available.

11.2 Resin Gel Time/Initiator Percentage

11.2.1 Previous testing has indicated that resin gel time influences the emissions from composite production. The testing indicated that longer the gel times led to higher emissions. There are a number of factors that influence gel time including initiator type, initiator brand, initiator level, temperature and resin additives. Under actual usage conditions a molder will adjust the initiator to meet a gel time requirement. In this test procedure, the vapor suppressed and non-vapor suppressed resin systems will be adjusted to the same gel time by selecting the appropriate initiator level for each.

11.2.2 All test runs within a test will be processed in a manner that produces the same resin gel time ±2 minutes. To facilitate the resin mixing procedure, master batches of resin and resin plus vapor suppressant of resin are prepared. These resin master batches will have all of the required ingredients except initiator; this includes filler for filled systems. The gel times for the tests are conducted using the master batch and adjustments to meet gel time requirements shall be made to the master batch before emission testing is conducted. Test temperatures must be maintained within the required range, during gel time testing. Further gel time testing is not required after the non-vapor suppressed and vapor suppressed master batches are established with gel times within ±2 minutes. A sufficient quantity of each resin should be prepared to allow for additional test specimens in the event one or more test fails to meet the data acceptance criteria discussed in Section 11.5 and shown in Table 17.2.

11.2.3 The specific brand of initiator and the nominal percentage level recommended by the resin manufacturer will be indicated on the resin certificate of analysis [15]; or, if a unique gel time is required in a production laminate, initiator brand and percentage will be determined by that specific requirement.

11.2.4 Examples:

11.2.4.1 The resin for a test run is specified as having a 15-minute cup gel time at 77°F using Brand X initiator at 1.5 percent by weight. The non-suppressed control resin has a 15-minute gel time. The suppressed resin has a gel time of 17-minutes. An initiator level of 1.5 percent would be selected for the both the non-suppressed and the suppressed test samples.

11.2.4.2 Based on a specific production requirement, a resin is processed in production using 2.25 percent of Brand Y initiator, which produces a 20-minute gel time. This initiator at level of 2.25 percent produces a 20 minute gel time for the non-suppressed control resin, but yields a 25-minute gel time for the suppressed resin sample. The suppressed resin is retested at 2.50 percent initiator and produces a 21-minute gel time. The initiator levels of 2.25 percent and 2.50 percent respectively would yield gel times within ±2 minutes.

11.3 Test Run Procedure for Unfilled Resin (see the data sheet shown in Table 17.1).

11.3.1 The insulating board is placed on the balance.

11.3.2 The aluminum pan with attached Mylar film is placed on the balance, and the balance is tared (weight reading set to zero with the plate on the balance.)

11.3.3 Place two plies of 1.5 oz. CSM on the balance and record the weight (glass weight).

11.3.4 The resin beaker and stirring rod are put on the second balance and tared.

11.3.5 The required resin weight and initiator weight are calculated (refer to calculation formulas in 12.2).

11.3.6 The disposable resin application roller is placed on the edge of the plate.

11.3.7 The balance is tared, with the aluminum pan, Mylar film, glass mat, and resin application roller on the balance pan.

11.3.8 Resin is weighed into a beaker, as calculated, using the second balance. The mixing stick should be tared with the beaker weight.

11.3.9 Initiator is weighed into the resin, as calculated, using an eyedropper or a pipette, and the combination is mixed.

11.3.10 Initiated resin is poured on chopped strand mat in a pe-determined pattern (see Figure 11.6).

11.3.11 A stopwatch is started from zero.

11.3.12 The initial laminate weight is recorded.

11.3.13 The plate is removed from balance to enable roll-out of the laminate.

11.3.14 The wet laminate is rolled with the resin application roller to completely distribute the resin, saturate the chopped strand mat, and eliminate air voids. Roll-out time should be in the range of 2 to 3[16] minutes and vary less than ±10 percent of the average time required for the complete set of six suppressed and six non-suppressed runs.

11.3.15 Record the rollout end time (time from start to completion of rollout).

11.3.16 Place the resin application roller on the edge of the plate when rollout is completed.

11.3.17 Place the plate back on the balance pan. Immediately record the weight.

11.3.18 For the first test in a series of six tests, weight is recorded every 5-minute interval (suppressed and non-suppressed). The end of the test occurs when three consecutive equal weights are recorded or a weight gain is observed (the last weight before the increased weight is the end of test weight). For the remaining five tests in the series, after the initial weights are taken, the next weight is recorded 30 minutes before the end of the test, as suggested by the results from the first test. It is likely that the time to reach the end point of a suppressed resin test will be shorter than the time required to complete a non-suppressed test. Therefore, the time to start taking data manually may be different for suppressed and non-suppressed resins.

11.4 Test Run Procedures for Filled Resin Systems [17] Note that the procedure for filled systems differs from the procedure for unfilled systems. With filled systems, resin is applied to one ply of the CSM and the second ply is placed on top of the resin.

11.4.1 The insulating board is placed on the balance.

11.4.2 The aluminum pan with attached Mylar film is placed on the balance, and the balance is tared (weight reading set to zero with the plate on the balance.)

11.4.3 Place two plies of 1.5 oz. CSM on the balance and record the weight (glass weight).

11.4.4 Remove the top ply of fiberglass and record its weight (weight of 1st layer of glass).

11.4.5 The required resin weight and initiator weight are calculated (refer to calculation formulas in 12.2). Calculate the weight of filled resin and initiator based on the 2 layers of fiberglass.

11.4.6 The resin beaker and stirring rod are put on the second balance and tared.

11.4.7 A disposable resin application roller is placed on the edge of the plate.

11.4.8 The balance is tared, with the aluminum pan, Mylar film, glass mat, and resin application roller on the balance pan.

11.4.9 Resin is weighed into the beaker, as calculated, using the second balance. The mixing stick should be tared with the beaker weight.

11.4.10 Initiator is weighed into the resin, as calculated, using an eyedropper or a pipette, and the combination is mixed.

11.4.11 Initiated resin is poured on the single ply of CSM in a pre-determined pattern. Refer to Figure 11.6.

11.4.12 A stopwatch is started from zero.

11.4.13 Record the weight of the resin ans single ply of CSM (L_1). The initial laminate weight equals L_1 plus the weight of second glass layer.

11.4.14 Replace the second layer of fiberglass.

11.4.15 Remove the plate from the balance to allow roll-out of the laminate.

11.4.16 Roll the wet laminate with the resin application roller to completely distribute the resin, saturate the chopped strand mat, and eliminate air voids. Roll-out time should be in the range of 2 to 3[16] minutes and vary less than ± 10 percent of the average time required for the complete set of six suppressed and six non-suppressed runs.

11.4.17 Record the roll-out end time (time from start to completion of rollout).

11.4.18 Place the resin application roller on the edge of the plate when rollout is completed.

11.4.19 Place the plate back on the balance pan. The initial weight is recorded immediately.

11.4.20 For the first test run in a series of six, weight is recorded at every 5-minute interval (suppressed and non-suppressed). The end of the test occurs when three consecutive equal weights are recorded or a weight gain is observed (the last weight before the increased weight is the end of test weight). For the remaining five tests in the series, after the initial weights are taken, the next weight is recorded 30 minutes before the end of the test, as suggested by the results from the first test. It is likely that the time to reach the end point of a suppressed resin

test will be shorter than the time required to complete a non-suppressed test. Therefore, the time to start taking data manually may be different for suppressed and non-suppressed resins.

11.5 Data Acceptance Criteria:

11.5.1 A test set is designed as twelve individual test runs using the same resin, initiator, and gel time, six of the test runs use the resin non-vapor suppressed and the other six use it vapor suppressed.

11.5.2 If a test run falls outside any of the time, temperature, weight or humidity variation requirements, it must be discarded and run again.

11.5.3 The laminate roll out time for each individual test run must vary less than ± 10 percent of the average time required for the complete set of six suppressed and six non-suppressed runs.

11.5.4 Test temperature for each test run must be maintained within ±2°F and the average must be between 70° and 80°F. Refer to 11.1.3.

11.5.5 The difference in the amount of resin for each run must be within ±10 percent of the average weight for the complete set of six suppressed and six non-suppressed runs.

11.5.6 The relative humidity from each test run must be within ±15 percent of the average humidity for the complete set of six suppressed and six non-suppressed tests. Refer to 11.1.4

11.5.7 The glass content for each test set must be within ±10 percent of the average resin-to-/glass ratio for the complete set of six suppressed and six non-suppressed runs. Refer to 12.2).

11.5.8 The filler content for each test of a test set must be within ±5 percent of the average filler content for the complete set of six suppressed and six non-suppressed runs. Refer to 12.2.

11.6 Resin Application Pour Pattern:

11.6.1 To facilitate the distribution of resin across the chopped strand mat, and to provide consistency from test to test, a uniform pour pattern should be used. A typical pour pattern is shown below:

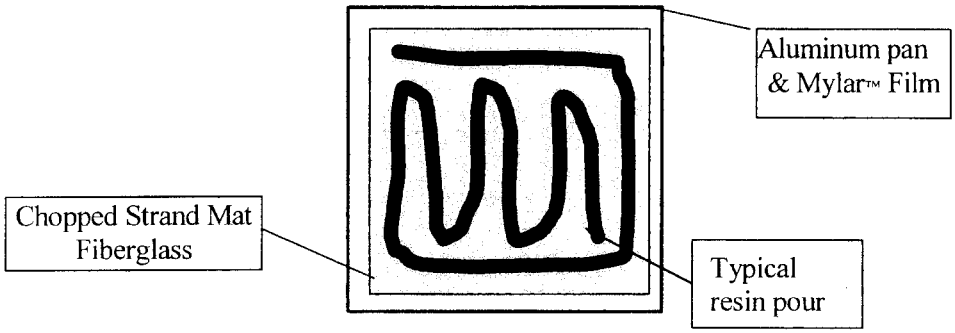


Figure 11.6 Resin Distribution Diagram

11.6.2 The resin is to be evenly distributed across the entire surface of the chopped strand mat using the resin application roller to achieve a wet look across the surface of the laminate. Pushing excess resin off the reinforcement and onto the Mylar sheet should be avoided. No resin is to be pushed more than ½ inch beyond the edge of the glass mat. If excess resin is pushed further from the glass mat, it will void the test run. As part of this process, typical visible air voids are to be eliminated by the rollout process. If the pour pattern is different from the above, it must be recorded and attached to test data sheet 17.1.

12. Data Analysis and Calculations

12.1 Data Analysis:

This test method requires a simple mass balance calculation, no special data analysis is necessary.

12.2 Calculations:

12.2.1 The target glass content (percent) for unfilled resin systems is determined from the specific production parameters being evaluated. In absence of any specific production requirements the target may be set at the tester's discretion.

12.2.2 Glass content determination (expressed as a per cent):

% Glass = Glass wt(g)/(Glass wt(g) + Resin weight (g))

12.2.3 Weight of resin required:

Resin weight required = (Glass wt (g)/% glass)—Glass wt (g)

12.2.4 Filled resin formulation determination for filled resin systems (*e.g.* >30 percent filler by weight for a particulate filler, or >1 percent by weight for a lightweight filler, such as hollow microspheres):

% Resin content = resin weight(g)/(resin weight(g) + glass weight(g) + filler weight(g))

% Glass content = glass weight(g)/(resin weight(g) + glass weight(g) + filler weight(g))

Filler content = filler weight(g)/(resin weight(g) + glass weight(g) + filler weight(g))

12.2.5 Initiator weight determination:

Initiator weight (g) = Resin weight(g) × Initiator %

12.2.6 Emission weight loss determination:

Emissions weight loss (g) = Initial resin weight (g) − Final resin weight (g)

12.2.7 % Emission weight loss:

% Emission Weight Loss = (Emission weight loss (g) Initial resin weight (g) × 100

12.2.8 Average % Emission Weight Loss (assuming six test runs):

$$\text{Average \% Emission Weight Loss} = \sum_{i}^{N=6} \left(\text{\% Emission Weight Loss}_i\right)/6$$

12.2.9 VSE Factor calculation:

VSE Factor = 1 − (Average % VS Emission Weight Loss/Average NVS Emission Weight Loss)

TABLE 12.1.—EXAMPLE CALCULATION

Test #	% VS weight loss	% NVS weight loss
1	6.87	10.86
2	6.76	11.23
3	5.80	12.02
4	5.34	11.70
5	6.11	11.91
6	6.61	10.63
Average Weight Loss	6.25	11.39
VSE Factor	.....	0.4

VSE Factor = 0.45

VSE Factor is used as input into the appropriate equation in Table 1 to this subpart.

Example from Table 1 to this subpart:

Manual Resin Application, 35 percent HAP resin, VSE Factor of 0.45

HAP Emissions with vapor suppresants = $((0.286 \times \%HAP) - 0.0529) \times 2000 \times (1-(0.5 \times VSE\ factor))$

HAP Emissions with vapor suppresants = $((0.286 \times .35) - 0.0529) \times 2000 \times (1 - (0.5 \times .45))$

HAP Emissions with vapor suppresants = 73 pounds of HAP emissions per ton of resin.

13. Method Performance

13.1 Bias:

The bias of this test method has not been determined.

13.2 Precision Testing

13.2.1 Subsequent to the initial development of this test protocol by the Composites Fabricators Association, a series of tests were conducted in three different laboratory facilities. The purpose of this round robin testing was to verify the precision of the test method in various laboratories. Each laboratory received a sample of an orthophthalic polyester resin from the same production batch, containing 48 per cent styrene by weight. Each testing site was also provided with the same vapor suppressant additive. The suppressant manufacturer specified the percentage level of suppressant additive. The resin manufacturer specified the type and level of initiator required to produce a 20 minute gel time. The target glass content was 30 percent by weight.

13.2.2 Each laboratory independently conducted the VSE test according to this method. A summary of the results is included in Table 13.1.

TABLE 13.1.—ROUND ROBIN TESTING RESULTS

	Test Lab 1		Test Lab 2		Test Lab 3	
	NVS	VS	NVS	S	NVS	VS
Average percent WT Loss	4.24	1.15	4.69	1.84	5.73	1.61
Standard Deviation	0.095	0.060	0.002	0.002	0.020	0.003
VSE Factor	.....	0.730	.....	0.607	.....	0.720

13.3 Comparison to EPA Reference Methods This test has no corresponding EPA reference method.

14. Pollution Prevention

The sample size used in this method produces a negligible emission of HAP, and has an insignificant impact upon the atmosphere.

15. Waste Management

The spent and waste materials generated during this test are disposed according to required facility procedures, and waste management recommendations on the corresponding material safety data sheets.

16. References and footnotes

16.1 Footnotes:

[1] Balance Enclosure—The purpose of the balance enclosure is to prevent localized airflow from adversely affecting the laboratory balance. The enclosure may be a simple three-sided box with a top and an open face. The configuration of the enclosure is secondary to the purpose of providing a stable and steady balance reading, free from the effects of airflow, for accurate measurements. The enclosure can be fabricated locally. A typical enclosure is shown in Figure 17.1.

[2] Laboratory Balance—Ohaus Precision Standard Series P/N TS400D or equivalent—Paul N. Gardner Co. 316 NE 1st St. Pompano Beach, FL 33060 or other suppliers.

[3] Stop Watch—Local supply.

[4] Thermometer—Mercury thermometer—ASTM No. 21C or equivalent; Digital thermometer—P/N TH–33033 or equivalent—Paul N. Gardner Co. 316 NE 1st St. Pompano Beach, FL 33060 or other suppliers.

[5] Aluminum Pan—Local supply.

[6] Mylar—Local supply.

[7] Double Sided Tape—3M Double Stick Tape or equivalent, local supply.

[8] Laboratory Beakers—250 to 400ml capacity—Local laboratory supply.

[9] Eye Dropper or Pipette—Local laboratory supply.

[10] Disposable Resin Application Roller Source—Wire Handle Roller P/N 205–050–300 or Plastic Handle Roller P/N 215–050–300 or equivalent; ES Manufacturing Inc., 2500 26st Ave. North, St. Petersburg, FL 33713, *www.esmfg.com,* or other source. Refer to Figure 17.3.

[11] Hygrometer or Psychrometer—Model# THWD–1, or equivalent—Part # 975765 by Amprobe Instrument, 630 Merrick Road, P.O. Box 329, Lynbrook, NY 11563, 516–593–5600

[12] Insulating Board (Teflon, cardboard, foam board etc.)—Local supply.

[13] Laboratory Balance With Digital Output—Ohaus Precision Standard Series P/N TS120S or equivalent—Paul N. Gardner Co. 316 NE 1st St. Pompano Beach, FL 33060 or other suppliers.

[14] Chopped Strand Mat—1.5 oz/ft^2 Sources: Owens Corning Fiberglas—Fiberglas M–723; PPG Industries—ABM HTX; Vetrotex America—M–127 or equivalent.

[15] Certificate of Analysis: Resin gel time, as recorded on the resin certificate of analysis, is measured using a laboratory standard gel time procedure. This procedure typically uses a 100 gram cup sample at 77°F (25°C), a specific type of initiator and a specified percentage.

[16] Roll-out times may vary with resin viscosity or resin additive. The important aspect of this step is to produce the same roll-out time for both the suppressed and non-suppressed samples.

[17] While this test can be used with filled resin systems, the test is not designed to determine the effect of the filler on emissions, but rather to measure the effect of the suppressant additive in the resin system. When evaluating a filled system both the non-vapor suppressed and vapor suppressed samples should be formulated with the same type and level of filler.

16.2 References

1. Phase 1—Baseline Study Hand Lay-up, CFA, 1996

2. CFA Vapor Suppressant Effectiveness Test Development, 4/3/98, correspondence with Dr. Madeleine Strum, EPA, OAQPS

3. CFA Vapor Suppressant Effectiveness Screening Tests, 4/4/98

4. Styrene Suppressant Systems Study, Reichhold Chemical, 11/30/98

5. Evaluation of the CFA's New Proposed Vapor Suppressant Effectiveness Test, Technical Service Request #: ED–01–98, BYK Chemie, 6/3/98

6. Second Evaluation of the CFA's New Proposed Vapor Suppressant Effectiveness Test, Technical Service Request #: ED–02–98, BYK Chemie, 1/26/99

17. Data Sheets and Figures

17.1 This data sheet, or a similar data sheet, is used to record the test data for filled, unfilled, suppressed and non-suppressed tests. If additional time is required, the data sheet may be extended.

BILLING CODE 6560–50–U

Table 17.1 Test Data Sheet

Test Number			Test Type		
			VS (_____)		NVS (_____)
Resin			Filled (____)		Unfilled (___)
Initiator				Initiator, %	_____
Vapor Suppressant				VS, %	_____
Weight of 2 layers of glass, g	_____	Weight of 1st glass layer, g	_____	Weight of 2nd glass layer, g	_____
Initial Resin Weight, (g)			Time (Min.)	Weight g	Temp ^{0}F
Glass content, (%)			55		
Initial Temperature ^{0}F:			60		
Initial Humidity %			65		
Resin Initiator Level, %			70		
Resin gel time, (min.)			75		
Resin filler content, %			80		
Roll out time, (min.)			85		
Time, (min.)	Weight, g	Temp, ^{0}F	90		

Initial			95		
			100		
0			105		
5			110		
10			115		
15			120		
20			125		
25			130		
30			135		
35			140		
40			145		
45			150		
50			155		
Final Time, min.	Final Weight, g.		Final Temp, ^{0}F	Final Humidity, %	

17.2 Data Acceptance Criteria Worksheet: The following worksheet is used to determine the quality of collected data (*i.e.* insure the data collected all meets acceptance criteria)

TABLE 17.2.—DATA ACCEPTANCE CRITERIA WORKSHEET

Test No.	Temperature			Laminate roll out time, min	Relative humidity, %		Resin weight, (g)	Glass content, %	Resin distribution	Meets criteria Y/N
	Min	Max	Delta		Initial	Final				
1										
2										
3										
4										
5										
6										
7										
8										
9										
10										
11										

TABLE 17.2.—DATA ACCEPTANCE CRITERIA WORKSHEET—Continued

Test No.	Temperature			Laminate roll out time, min	Relative humidity, %		Resin weight, (g)	Glass content, %	Resin distribution	Meets criteria Y/N
	Min	Max	Delta		Initial	Final				
12										
Average Criteria			± 2°F	±10% of Average	± 15 of Average	± 15 of Average	± 10% of Avg.	± 10% of Avg.	<½ inch off mat	All Y

17.3 VSE Factor Calculation

TABLE 17.3.—CALCULATIONS WORKSHEET

Vapor suppressed		Non-vapor suppressed	
Test #	% Weight loss	Test #	% Weight loss
Average Weight Loss			
VSE Factor			

VSE Factor = 1—(% Average Weight Loss $_{VS}$/ % Average Weight Loss$_{NVS}$)

17.4 Figures

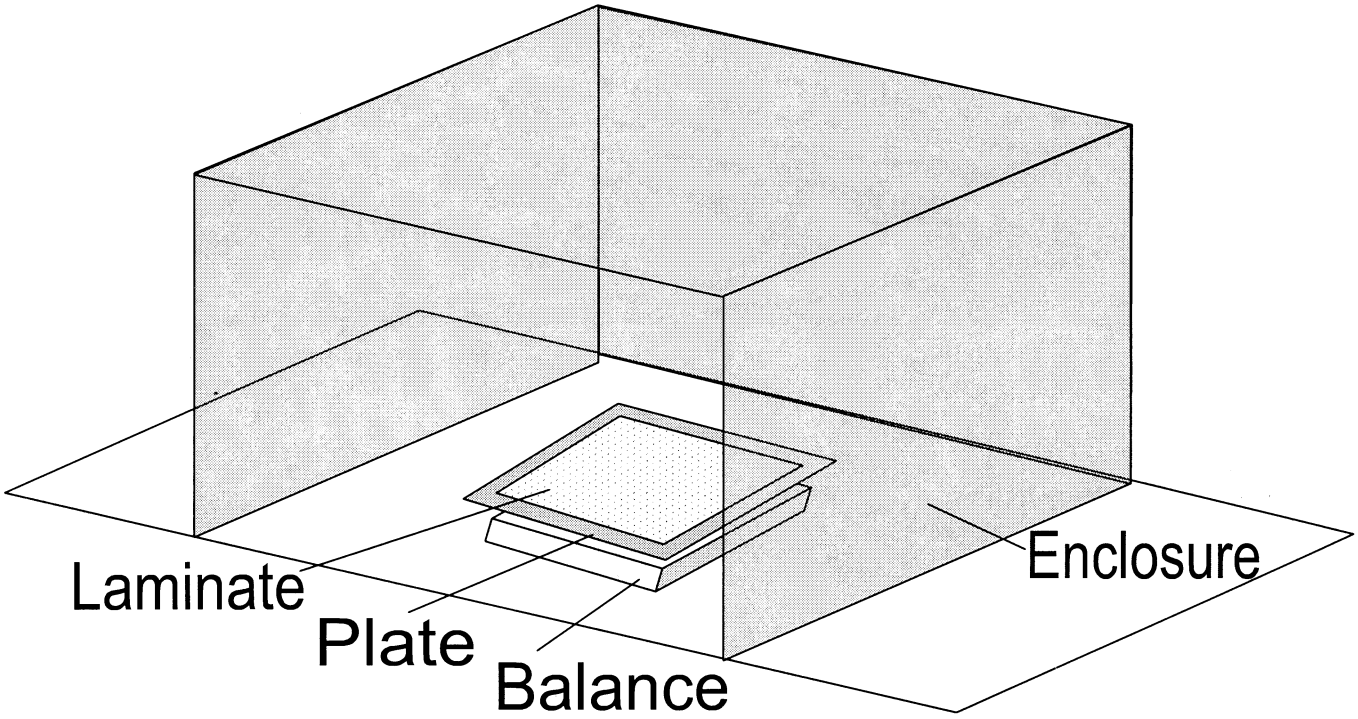


Figure 17.1. Typical Balance Enclosure

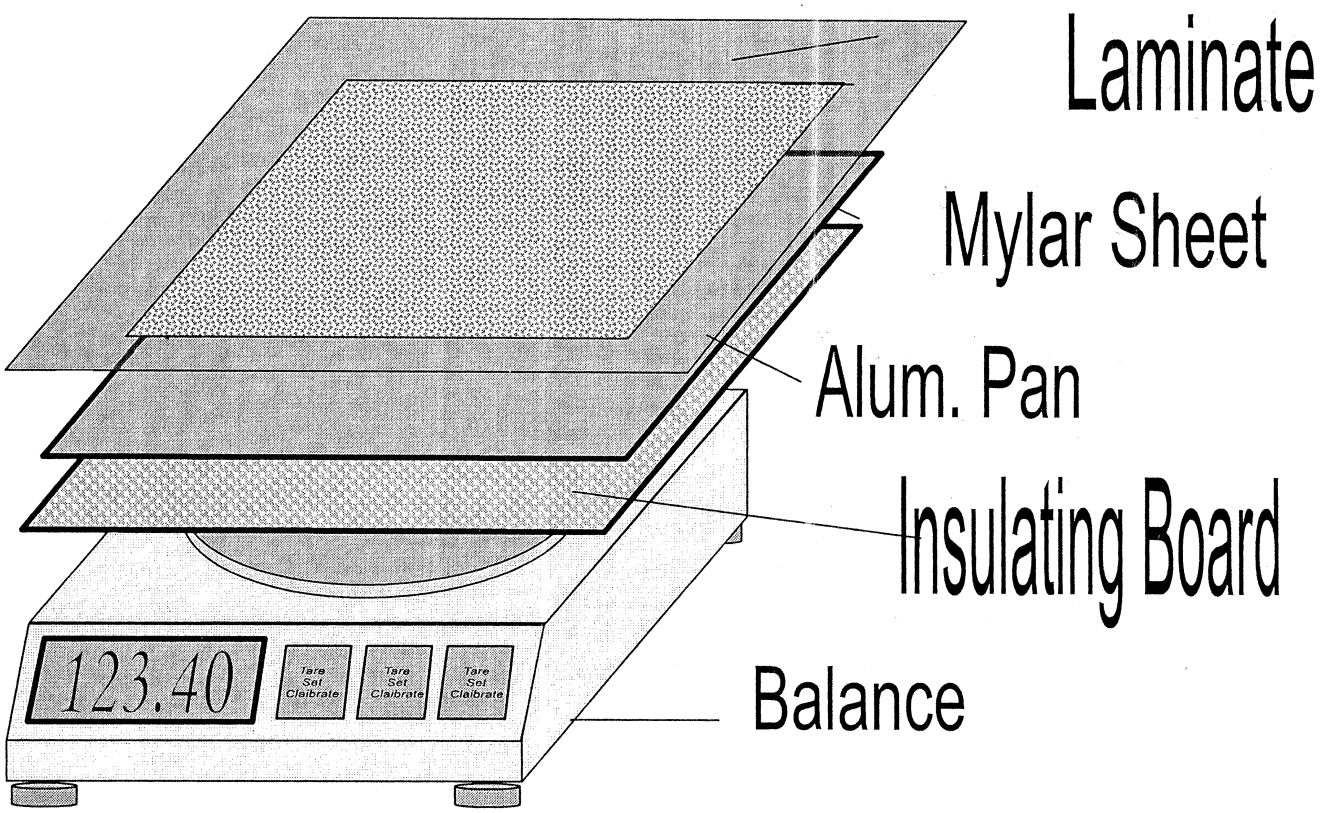
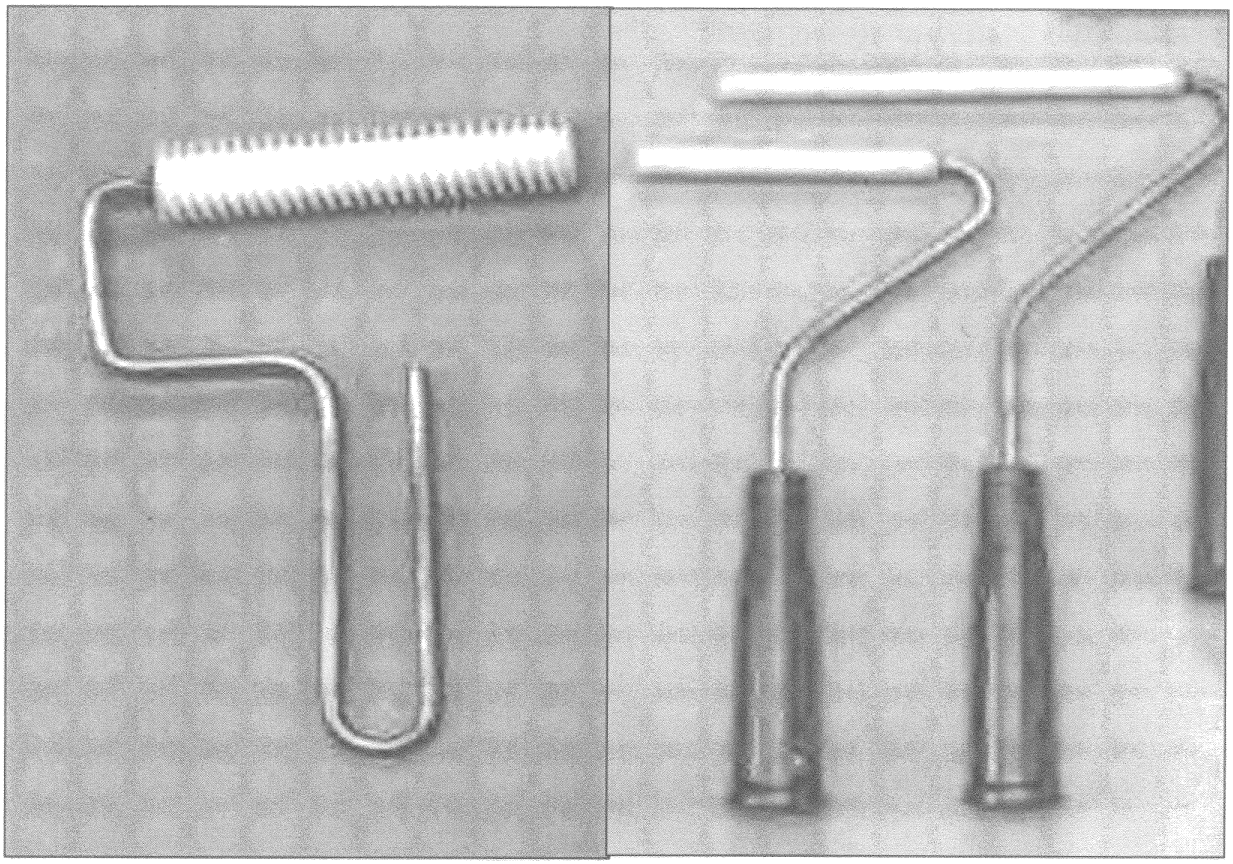


Figure 17.2. Scale, Plate, Insulating Board, Mylar, Laminate Order



FRP Rollers

Figure 17.3. Typical FRP Rollers

[FR Doc. 03–5615 Filed 4–18–03; 8:45 am]
BILLING CODE 6560–50–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–7486–1]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion for the Industrial Latex Corp. Superfund Site from the National Priorities List.

SUMMARY: The U.S. Environmental Protection Agency (EPA) Region II Office announces the deletion of the Industrial Latex Corp. Superfund Site from the National Priorities List (NPL). The Industrial Latex site is located in the Borough of Wallington, Bergen County, New Jersey. The NPL constitutes appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the State of New Jersey, through the Department of Environmental Protection, have determined that all appropriate remedial actions have been completed at the Industrial Latex site and no further fund-financed remedial action is appropriate under CERCLA. In addition, EPA and the State of New Jersey have determined that the remedial actions taken at the Industrial Latex site protect public health and the environment without any further monitoring or restriction.

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Stephanie Vaughn, Remedial Project Manager, U.S. Environmental Protection Agency, Region II, 290 Broadway, 19th Floor, New York, New York 10007–1866, (212) 637–3914.

SUPPLEMENTARY INFORMATION: To be deleted from the NPL is: the Industrial Latex Corp. Superfund Site, Borough of Wallington, Bergen County, New Jersey.

A Notice of Intent to Delete for the Industrial Latex Corp. Site was published in the **Federal Register** on December 9, 2002 (67 FR 72888). The closing date for comments on the Notice of Intent to Delete was March 1, 2003. EPA received no comments regarding this action. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and it maintains the NPL as the list of those sites. As described in 300.425(e)(3) of the NCP, any site or portion thereof deleted from the NPL remains eligible for remedial actions in the unlikely event that conditions at the site warrant such action in the future. Deletion of a site from the NPL does not affect responsible party liability or impede agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Environmental protection, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Superfund, Water pollution control, Water supply.

William J. Muszynski,

Acting Regional Administrator—Region II.

■ For the reasons set out in the preamble, part 300, chapter I of title 40 of the Code of Federal Regulations, is amended as follows:

PART 300—[AMENDED]

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

Authority: 42 U.S.C. 9601–9657; 33 U.S.C. 1321(c)(2); 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 by removing the ''Industrial Latex Corp., Wallington Borough, New Jersey.''

[FR Doc. 03–9745 Filed 4–18–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 90

[WT Docket No. 01–146; RM–9966; FCC 03–35]

Applications and Licensing of Low Power Operations in the Private Land Mobile Radio 450–470 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC) divides low power channels in the 450–470 MHz band into five groups. Each group of frequencies is intended for a different market. Collectively, they address the diversity of low power operations in the 450–470 MHz band. The FCC believes that the plan adopted will accommodate a broad range of potential low power users while maximizing efficient and flexible use of the band.

DATES: Effective May 21, 2003.

FOR FURTHER INFORMATION CONTACT: Brian Marenco, Electronics Engineer, *bmarenco@fcc.gov,* or Genevieve Augustin, Esquire, *gaugusti@fcc.gov,* Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Report and Order, FCC 03–35, adopted on February 14, 2003, and released on March 11, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. In this Report and Order, the FCC:

• Designates forty-nine 12.5 kHz 450–470 MHz Industrial/Business channel pairs and one unpaired frequency for low power coordinated use. Thirty-nine of the channel pairs and the unpaired frequency will be available for full power at least 50 miles outside of the top 100 urban areas. These channels will be referred to as ''Group A.''

• Raises power limits for base/fixed operations on the Group A channels to 20 watts effective radiated power.

• Designates ten 12.5 kHz 450–470 MHz channel pairs for low power non-voice coordinated use nationwide, with voice operations allowed on a secondary basis. These channels will be referred to as ''Group B.''

• Designates twenty-one 12.5 kHz 450–470 MHz channel pairs and four unpaired frequencies for low power non-coordinated use nationwide. These channels will be referred to as ''Group C.'' Although the majority of these channels are immediately available, ten Group C frequencies will become available only after completion of the medical telemetry migration deadline.

• Converts power limits for mobile operations on the Group A, B and C frequencies to 6 watts effective radiated power.

• Designates five 12.5 kHz 450–470 MHz channel pairs for low power

coordinated use, reserved for central station alarm operations, as under current rules. These channels will be referred to as ''Group D.''

• Designates fourteen 12.5 kHz channels pairs for low power use in the Public Safety Pool. These channels will be referred to as the ''Public Safety Group.''

• ''Grandfathers'' high power operations currently licensed on the low power channels.

2. The FCC believes that the plan it adopts will accommodate a broad range of potential low power users while maximizing efficient and flexible use of the band.

Procedural Matters

A. Regulatory Flexibility Act Analyses

3. As required by Section 604 of the Regulatory Flexibility Act, 5 U.S.C. 604, the FCC has prepared a Final Regulatory Flexibility Analysis (FRFA) of the expected impact on small entities of the rule changes implemented in this document. The FRFA is set forth further.

B. Paperwork Reduction Act of 1995 Analysis

4. The actions taken in the Report and Order have been analyzed with respect to the Paperwork Reduction Act of 1995, Public Law Number 104–13, and found to impose no new or modified recordkeeping requirements or burdens on the public.

Final Regulatory Flexibility Analysis

5. As required by the Regulatory Flexibility Act (RFA) of 1980, as amended, an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the NPRM. The FCC sought written public comment on the proposals in the Notice of Proposed Rule Making (NPRM), including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of the Final Rules

6. The rule changes implemented by this decision are needed in order to facilitate the viability of important low power operations in the 450–470 MHz band. Previously, low power operators were licensed on channels that were 12.5 kHz removed from regularly assignable channels in this band (''12.5 kHz offset channels''). These offset channels, however, were reclassified by the FCC for high power operation. Because of the continuing need for low power channels, the FCC believes that the rule changes contained in its decision are in the public interest.

7. The FCC's objective, the implementation of a low power plan that would suit the needs of low power users, was realized in the following manner. The FCC tasked the private land mobile radio (PLMR) frequency coordinators with developing a plan for low power operations, through industry consensus, on what was formerly known as the 450–470 MHz low power offset channels. On June 4, 1997, the Land Mobile Communications Council (LMCC) filed the requested plan (Consensus Plan).

Because the LMCC's Consensus Plan required changes to the FCC's Rules, on September 11, 2000, the LMCC filed with the FCC a Petition for Rule Making seeking the appropriate amendments. On July 24, 2001, the FCC released a Notice of Proposed Rule Making, proposing amendments to Part 90 of its rules in order to effectuate the changes suggested in the Consensus Plan. The resulting Report and Order implements many of the proposed changes. Among the major rules adopted are: designation of forty-nine 12.5 kHz 450–470 MHz Industrial/Business channel pairs and one unpaired frequency for low power coordinated use, of which 39 channel pairs and one unpaired frequency will be available for full power at least 50 miles outside of the top 100 urban areas; raising of power limits for base/fixed operations on the Group A channels to 20 watts effective radiated power; designation of ten 12.5 kHz 450–470 MHz channel pairs for low power non-voice coordinated use nationwide, with voice operations allowed on a secondary basis; designation of twenty-five 12.5 kHz 450–470 MHz channel pairs for low power non-coordinated use nationwide; conversion of power limits for mobile operations on frequencies in the Public Safety Group and Industrial/Business Groups A, B and C, to 6 watts effective radiated power; designation of five 12.5 kHz 450–470 MHz channel pairs for low power, coordinated use (primarily central station alarm); designation of fourteen 12.5 kHz channels pairs for low power use in the Public Safety Pool; and the grandfathering of high power operations currently licensed on the low power channels.

B. Legal Basis

8. Authority for the amendments included in the Report and Order is contained in Sections 4(i), 303(f), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 4(i), 303(f), 303(r), and 332.

C. Description and Estimate of the Number of Small Entities to Which the Final Rules Will Apply

9. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as ''small business concern'' under the Small Business Act. A ''small business concern'' is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

10. *Governmental Entities.* ''Small governmental jurisdiction'' generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 such jurisdictions in the United States. This number includes 38,978 counties, cities, and towns; of these, 37,566, or ninety-six percent, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the FCC estimates that 81,600 (ninety-one percent) are small entities. Below, the FCC further describes and estimates the number of small entity licensees and regulatees that may be affected by the rule changes adopted herein.

11. *Public Safety Radio Services.* As a general matter, Public Safety Radio Pool licensees include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services. The SBA rules contain a definition for small radiotelephone (wireless) companies, which encompasses business entities engaged in radiotelephone communications employing no more that 1,500 persons. There are a total of approximately 127,540 licensees within these services. With respect to local governments, in particular, since many governmental entities as well as private businesses comprise the licensees for these services, the FCC includes under public safety services the number of government entities afflicted.

12. *PLMR Licensees.* Private land mobile radio systems serve an essential role in a vast range of industrial, business, land transportation, and public safety activities. These radios are

used by companies of all sizes operating in all U.S. business categories. Because of the vast array of PLMR users, the FCC has not developed a definition of small entities specifically applicable to PLMR users, nor has the SBA developed any such definition. The SBA rules do, however, contain a definition for small radiotelephone (wireless) companies. Included in this definition are business entities engaged in radiotelephone communications employing no more that 1,500 persons. According to the Bureau of the Census, only twelve radiotelephone firms of a total of 1,178 such firms which operated during 1992 had 1,500 or more employees. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The FCC's fiscal year 1994 annual report indicates that, at the end of fiscal year 1994, there were 1,101,711 licensees operating 12,882,623 transmitters in the PLMR bands below 512 MHz.

13. *Wireless Communications Equipment Manufacturers.* The FCC anticipates that manufacturers of wireless radio equipment will be affected by our decisions in this proceeding. According to the SBA's regulations, radio and television broadcasting and communications equipment manufacturers must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicate that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would therefore be classified as small entities.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

14. No new reporting, recordkeeping, or other compliance requirements would be imposed on applicants or licensees as a result of the rules adopted in this proceeding.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

15. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance, rather than design standards; and (4) an exemption from coverage of the rule or any part thereof, for such small entities.

16. Regarding FCC rule changes increasing the power limits and antenna height for low power users operating on the 49 channel pairs and one unpaired frequency in Group A, although increasing the power and antenna height limits for low power users on these channels could decrease the number of operators possible in a given area, the FCC believes that the need, as demonstrated in the Low Power Plan, for higher power and greater antenna height on these channels, outweighs the potential for reduction of the number of licensees. An alternative to this amendment would have been to maintain the current power restriction of 2 watts output power and 7 meters antenna height, or impose power limitations less than 20 watts for base stations and 5 watts for mobile/portable stations and less than 23 meters antenna height above ground level. These alternatives, however, would not address the need, especially in hostile radio environments, for more than 2 watts output power and/or antenna heights of more than 7 meters. Moreover, since many operators in hostile radio environments are smaller entities, the rules adopted in the Report and Order are especially beneficial to those entities.

17. In addition, regarding the FCC's rule changes which designate 25 channels for low power, itinerant use in Group C, incumbent licensees, some of which may be small entities, could face interference from itinerant users that will not be required to coordinate their operations through a certified frequency coordinator. Despite the possibility of potential interference, the need for itinerant operations in the PLMR services is substantiated enough to justify the risk of some increase in interference. In this connection, the FCC notes that small businesses that require itinerant operations, whether new entrants or incumbents, will be eligible for these channels and may benefit from our proposal.

18. Regarding the FCC's rule change allowing 5 watts ERP for the fourteen channels in the Public Safety Pool, there will be no significant adverse impact on small entities. An alternative to this change would have been to maintain the current limitation of 2 watts output power or to have imposed a power limitation of less than 5 watts ERP. Neither of these alternatives, however, would be sufficient to promote flexibility for Public Safety Pool licensees that require more than 2 watts output power for their operations.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Final Rules

19. None.

20. *Report to Congress:* The FCC will send a copy of this Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the FCC will send a copy of this Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of this Report and Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Ordering Clauses

21. Pursuant to Sections 4(i), 303(f), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), 303(r) and 332, this Report and Order is adopted.

22. Part 90 of the FCC's Rules is amended as specified in rule changes, effective May 21, 2003.

23. The FCC's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 90

FCC equipment, Radio, Reporting and Recordkeeping requirements.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

■ For the reasons discussed in the preamble the FCC amends 47 CFR part 90 as follows:

PART 90—PRIVATE LAND MOBILE RADIO SERVICES

■ 1. The authority citation for part 90 continues to read as follows:

Authority: Sections 4(i), 11, 303(g), 303(r) and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 161, 303(g), 303(r), 332(c)(7).

■ 2. Section 90.20 is amended by adding limitations to the following frequencies to the table in paragraph (c)(3) and adding a new paragraph (d)(84) to read as follows:

§ 90.20 Public Safety Pool.

* * * * *

(c) * * *

(3) * * *

PUBLIC SAFETY POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
453.03125	Base or mobile	44, 59, 60, 61, 62, 84	PM.
453.0375	do	27, 59, 60, 61, 62, 84	PX.
453.04375	do	44, 59, 60, 61, 62, 84	PM.
* *	* *	* *	*
453.05625	do	44, 84	PX.
453.0625	do	27, 84	PX.
453.06875	do	44, 84	PX.
* *	* *	* *	*
453.08125	Base or mobile	44, 59, 60, 61, 62, 84	PM.
453.0875	do	27, 59, 60, 61, 62, 84	PX.
453.09375	do	44, 59, 60, 61, 62, 84	PM.
* *	* *	* *	*
453.10625	do	44, 84	PX.
453.1125	do	27, 84	PX.
453.11875	do	44, 84	PX.
* *	* *	* *	*
453.13125	Base or mobile	44, 59, 60, 61, 62, 84	PM.
453.1375	do	27, 59, 60, 61, 62, 84	PX.
453.14375	do	44, 59, 60, 61, 62, 84	PM.
* *	* *	* *	*
453.88125	do	44, 84	PX.
453.8875	do	27, 84	PX.
453.89375	do	44, 84	PX.
* *	* *	* *	*
453.90625	do	44, 84	PX.
453.9125	do	27, 84	PX.
453.91875	do	44, 84	PX.
* *	* *	* *	*
453.93125	do	44, 84	PX.
453.9375	do	27, 84	PX.
453.94375	do	44, 84	PX
* *	* *	* *	*
453.95625	do	44, 84	PX.
453.9625	do	27, 84	PX.
453.96875	do	44, 84	PX.
* *	* *	* *	*
453.98125	do	44, 84	PX.
453.9875	do	27, 84	PX.
453.99375	do	44, 84	PX.
* *	* *	* *	*
458.03125	Mobile	44, 59, 61, 62, 84	PM.
458.0375	do	27, 59, 61, 62, 84	PX.
458.04375	do	44, 59, 61, 62, 84	PM.
* *	* *	* *	*
458.05625	do	44, 84	PX.
458.0625	do	27, 84	PX.
458.06875	do	44, 84	PX.
* *	* *	* *	*
458.08125	Mobile	44, 59, 61, 62, 84	PM.
458.0875	do	27, 59, 61, 62, 84	PX.
458.09375	do	44, 59, 61, 62, 84	PM.
* *	* *	* *	*
458.10625	do	44, 84	PX.
458.1125	do	27, 84	PX.
458.11875	do	44, 84	PX.
* *	* *	* *	*
458.13125	Mobile	44, 59, 61, 62, 84	PM.

PUBLIC SAFETY POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
458.1375	do	27, 59, 61, 62, 84	PX.
458.14375	do	44, 59, 61, 62, 84	PM.
*	*	*	*
458.88125	do	44, 84	PX.
458.8875	do	27, 84	PX.
458.89375	do	44, 84	PX.
*	*	*	*
458.90625	do	44, 84	PX.
458.9125	do	27, 84	PX.
458.91875	do	44, 84	PX.
*	*	*	*
458.93125	do	44, 84	PX.
458.9375	do	27, 84	PX.
458.94375	do	44, 84	PX.
*	*	*	*
458.95625	do	44, 84	PX.
458.9625	do	27, 84	PX.
458.96875	do	44, 84	PX.
*	*	*	*
458.98125	do	44, 84	PX.
458.9875	do	27, 84	PX.
458.99375	do	44, 84	PX.
*	*	*	*
460.48125	do	44, 84	PP.
460.4875	do	27, 84	PP.
460.49375	do	44, 84	PP.
*	*	*	*
460.50625	do	44, 84	PP.
460.5125	do	27, 84	PP.
460.51875	do	44, 84	PP.
*	*	*	*
460.53125	do	44, 84	PP, PF, PM.
460.5375	do	27, 84	OO, PF, PM.
460.54375	do	44, 84	PP, PF, PM.
*	*	*	*
460.55625	do	44, 84	PP, PF, PM.
460.5625	do	27, 84	PP, PF, PM.
460.56875	do	44, 84	PP, PF, PM.
*	*	*	*
465.48125	do	44, 84	PP.
465.4875	do	27, 84	PP.
465.49375	do	44, 84	PP.
*	*	*	*
465.50625	do	44, 84	PP.
465.5125	do	27, 84	PP.
465.51875	do	44, 84	PP.
*	*	*	*
465.53125	do	44, 84	PP, PF, PM.
465.5375	do	27, 84	PP, PF, PM.
465.54375	do	44, 84	PP, PF, PM.
*	*	*	*
465.55625	do	44, 84	PP, PF, PM.
465.5625	do	27, 84	PP, PF, PM.
465.56875	do	44, 84	PP, PF, PM.
*	*	*	*

(d) * * *

(84) Operation on this frequency is subject to the low power provisions of § 90.267. This frequency is assigned to the Public Safety Group in the low power pool.

* * * * *

■ 3. Section 90.35 is amended by adding limitations to the following frequencies to the table in paragraph (b)(3), revising paragraph (c)(67) and adding new paragraphs (c)(83), (c)(84), (c)(85), (c)(86) and (c)(87) to read as follows:

§ 90.35 Industrial/Business Pool.

* * * * *

(b) * * *

(3) * * *

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations	Coordinator
*	*	*	*
451.18125	do	33, 84.	
451.1875	do	83, 84.	
451.19375	do	33, 84.	
*	*	*	*
451.23125	do	33, 84.	
451.2375	do	83, 84.	
451.24375	do	33, 84.	
*	*	*	*
451.28125	do	33, 84.	
451.2875	do	83, 84.	
451.29375	do	33, 84.	
*	*	*	*
451.30625	do	33, 84.	
451.3125	do	83, 84.	
451.31875	do	33, 84.	
*	*	*	*
451.33125	do	33, 84.	
451.3375	do	83, 84.	
451.34375	do	33, 84.	
*	*	*	*
451.35625	do	33, 84.	
451.3625	do	83, 84.	
451.36875	do	33, 84.	
*	*	*	*
451.38125	do	33, 84.	
451.3875	do	83, 84.	
451.39375	do	33, 84.	
*	*	*	*
451.40625	do	33, 84.	
451.4125	do	83, 84.	
451.41875	do	33, 84.	
*	*	*	*
451.43125	do	33, 84.	
451.4375	do	83, 84.	
451.44375	do	33, 84.	
*	*	*	*
451.45625	do	33, 84.	
451.4625	do	83, 84.	
451.46875	do	33, 84.	
*	*	*	*
451.48125	do	33, 84.	
451.4875	do	83, 84.	
451.49375	do	33, 84.	
*	*	*	*
451.50625	do	33, 84.	
451.5125	do	83, 84.	
451.51875	do	33, 84.	
*	*	*	*
451.53125	do	33, 84.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
451.5375	do	83, 84.	
451.54375	do	33, 84.	
* * *	* * *	* * *	
451.55625	do	4, 7, 33, 84.	
451.5625	do	4, 7, 83, 84.	
451.56875	do	4, 7, 33, 84.	
* * *	* * *	* * *	
451.58125	do	33, 84.	
451.5875	do	63, 84.	
451.59375	do	33, 84.	
* * *	* * *	* * *	
451.60625	do	4, 7, 33, 84.	
451.6125	do	4, 7, 83, 84.	
451.61875	do	4, 7, 33, 84.	
* * *	* * *	* * *	
451.63125	do	33, 84.	
451.6375	do	83, 84.	
451.64375	do	33, 84.	
* * *	* * *	* * *	
451.65625	do	4, 7, 33, 84.	
451.6625	do	4, 7, 83, 84.	
451.66875	do	4, 7, 33, 84.	
* * *	* * *	* * *	
451.68125	do	33, 84.	
451.6875	do	83, 84.	
451.69375	do	33, 84.	
* * *	* * *	* * *	
451.70625	do	4, 7, 33, 84.	
451.7125	do	4, 7, 83, 84.	
451.71875	do	4, 7, 33, 84.	
* * *	* * *	* * *	
451.73125	do	33, 84.	
451.7375	do	83, 84.	
451.74375	do	33, 84.	
* * *	* * *	* * *	
451.75625	do	4, 7, 33, 84.	
451.7625	do	4, 7, 83, 84.	
451.76875	do	4, 7, 33, 84.	
* * *	* * *	* * *	
452.03125	do	33, 84.	
452.0375	do	83, 84.	
452.04375	do	33, 84.	
* * *	* * *	* * *	
452.05625	do	33, 84.	
452.0625	do	83, 84.	
452.06875	do	33, 84.	
* * *	* * *	* * *	
452.08125	do	33, 84.	
452.0875	do	83, 84.	
452.09375	do	33, 84.	
* * *	* * *	* * *	
452.10625	do	33, 84.	
452.1125	do	83, 84.	
452.11875	do	33, 84.	
* * *	* * *	* * *	
452.13125	do	33, 84.	
452.1375	do	83, 84.	
452.14375	do	33, 84.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
452.15625	do	33, 84.	
452.1625	do	83, 84.	
452.16875	do	33, 84.	
* *	* *	* *	*
452.18125	do	33, 84.	
452.1875	do	83, 84.	
452.19375	do	33, 84.	
* *	* *	* *	*
452.28125	do	33, 84.	
452.2875	do	83, 84.	
452.29375	do	33, 84.	
* *	* *	* *	*
452.30625	do	33, 84.	
452.3125	do	83, 84.	
452.31875	do	33, 84.	
* *	* *	* *	*
452.40625	do	33, 84.	
452.4125	do	83, 84.	
452.41875	do	33, 84.	
* *	* *	* *	*
452.48125	do	33, 84.	
452.4875	do	83, 84.	
452.49375	do	33, 84.	
* *	* *	* *	*
452.50625	do	33, 84.	
452.5125	do	83, 84.	
452.51875	do	33, 84.	
* *	* *	* *	*
452.53125	do	33, 84	LA
452.5375	do	83, 84	LA
452.54375	do	33, 84	LA
* *	* *	* *	*
452.63125	do	33, 84.	
452.6375	do	83, 84.	
452.64375	do	33, 84.	
* *	* *	* *	*
452.65625	do	33, 84.	
452.6625	do	83, 84.	
452.66875	do	33, 84.	
* *	* *	* *	*
452.68125	do	33, 84.	
452.6875	do	83, 84.	
452.69375	do	33, 84.	
* *	* *	* *	*
452.70625	do	33, 84.	
452.7125	do	83, 84.	
452.71875	do	33, 84.	
* *	* *	* *	*
452.75625	do	33, 84.	
452.7625	do	83, 84.	
452.76875	do	33, 84.	
* *	* *	* *	*
452.78125	do	33, 84.	
452.7875	do	83, 84.	
452.79375	do	33, 84.	
* *	* *	* *	*
452.80625	do	33, 84.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
452.8125	do	83, 84.	
452.81875	do	33, 84.	
*	*	*	*
452.83125	do	33, 84.	
452.8375	do	83, 84.	
452.84375	do	33, 84.	
*	*	*	*
452.85625	do	33, 84.	
452.8625	do	83, 84.	
452.86875	do	33, 84.	
*	*	*	*
452.88125	do	33, 84.	
452.8875	do	83, 84.	
452.89375	do	33, 84.	
*	*	*	*
452.98125	do	33, 84.	
452.9875	do	83, 84.	
452.99375	do	33, 84.	
*	*	*	*
456.18125	do	33, 84.	
456.1875	do	83, 84.	
456.19375	do	33, 84.	
*	*	*	*
456.23125	do	33, 84.	
456.2375	do	83, 84.	
456.24375	do	33, 84.	
*	*	*	*
456.281125	do	33, 84.	
456.2875	do	83, 84.	
456.29375	do	33, 84.	
*	*	*	*
456.30625	do	33, 84.	
456.3125	do	83, 84.	
456.31875	do	33, 84.	
*	*	*	*
456.33125	do	33, 84.	
456.3375	do	83, 84.	
456.34375	do	33, 84.	
*	*	*	*
456.35625	do	33, 84.	
456.3625	do	83, 84.	
456.36875	do	33, 84.	
*	*	*	*
456.38125	do	33, 84.	
456.3875	do	83, 84.	
456.39375	do	33, 84.	
*	*	*	*
456.40625	do	33, 84.	
456.4125	do	83, 84.	
456.41875	do	33, 84.	
*	*	*	*
456.43125	do	33, 84.	
456.4375	do	83, 84.	
456.44375	do	33, 84.	
*	*	*	*
456.45625	do	33, 84.	
456.4625	do	83, 84.	
456.46875	do	33, 84.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
456.48125	do	33, 84.	
456.4875	do	83, 84.	
456.49375	do	33, 84.	
* *	* *	* *	*
456.50625	do	33, 84.	
456.5125	do	83, 84.	
456.51875	do	33, 84.	
* *	* *	* *	*
456.53125	do	33, 84.	
456.5375	do	83, 84.	
456.54375	do	33, 84.	
* *	* *	* *	*
456.55625	do	33, 84.	
456.5625	do	83, 84.	
456.56875	do	33, 84.	
* *	* *	* *	*
456.58125	do	33, 84.	
456.5875	do	83, 84.	
456.59375	do	33, 84.	
* *	* *	* *	*
456.60625	do	33, 84.	
456.6125	do	83, 84.	
456.61875	do	33, 84.	
* *	* *	* *	*
456.63125	do	33, 84.	
456.6375	do	83, 84.	
456.64375	do	33, 84.	
* *	* *	* *	*
456.65625	do	33, 84.	
456.6625	do	83, 84.	
456.66875	do	33, 84.	
* *	* *	* *	*
456.68125	do	33, 84.	
456.6875	do	83, 84.	
456.69375	do	33, 84.	
* *	* *	* *	*
456.70625	do	33, 84.	
456.7125	do	83, 84.	
456.71875	do	33, 84.	
* *	* *	* *	*
456.73125	do	33, 84.	
456.7375	do	83, 84.	
456.74375	do	33, 84.	
* *	* *	* *	*
456.75625	do	33, 84.	
456.7625	do	83, 84.	
456.76875	do	33, 84.	
* *	* *	* *	*
457.03125	do	33, 84.	
457.0375	do	83, 84.	
457.04375	do	33, 84.	
* *	* *	* *	*
457.05625	do	33, 84.	
457.0625	do	83, 84.	
457.06875	do	33, 84.	
* *	* *	* *	*
457.08125	do	33, 84.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
457.0875	do	83, 84.	
457.09375	do	33, 84.	
* * *	* * *	* * *	
457.10625	do	33, 84.	
457.1125	do	83, 84.	
457.11875	do	33, 84.	
* * *	* * *	* * *	
457.13125	do	33, 84.	
457.1375	do	38, 84.	
457.14375	do	33, 84.	
* * *	* * *	* * *	
457.15625	do	33, 84.	
457.1625	do	83, 84.	
457.16875	do	33,84.	
* * *	* * *	* * *	
457.18125	do	33,84.	
457.1875	do	83,84.	
457.19375	do	33,84.	
* * *	* * *	* * *	
457.28125	do	33,84.	
457.2875	do	33,84.	
457.29375	do	33,84.	
* * *	* * *	* * *	
457.30625	do	33,84.	
457.3125	do	83,84.	
457.31875	do	33,84.	
* * *	* * *	* * *	
457.40625	do	33,84.	
457.4125	do	83,84.	
457.41875	do	33,84.	
* * *	* * *	* * *	
457.48125	do	33,84.	
457.4875	do	83,84.	
457.49375	do	33,84.	
* * *	* * *	* * *	
457.50625	do	33,84.	
457.5125	do	83,84.	
457.51875	do	33,84.	
* * *	* * *	* * *	
457.63125	do	33,84.	
457.6375	do	83,84.	
457.64375	do	33,84.	
* * *	* * *	* * *	
457.65625	do	33,84.	
457.6625	do	83,84.	
457.66875	do	33,84.	
* * *	* * *	* * *	
457.68125	do	33,84.	
457.6875	do	83,84.	
457.69375	do	33,84.	
* * *	* * *	* * *	
457.70625	do	33,84.	
457.7125	do	83,84.	
457.71875	do	33,84.	
* * *	* * *	* * *	
457.78125	do	33,84.	
457.7875	do	83,84.	
457.79375	do	33,84.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
457.80625	do	33,84.	
457.8125	do	83,84.	
457.81875	do	33,84.	
* *	* *	* *	*
457.83125	do	33,84.	
457.8375	do	83,84.	
457.84375	do	33,84.	
* *	* *	* *	*
457.85625	do	33,84.	
457.8625	do	83,84.	
457.86875	do	33,84.	
* *	* *	* *	*
457.88125	do	33,84.	
457.8875	do	83,84.	
457.89375	do	33,84.	
* *	* *	* *	*
457.98125	do	33,84.	
457.9875	do	83,84.	
457.99375	do	33,84.	
* *	* *	* *	*
460.90625	do	33, 63, 65, 87.	
460.9125	do	63, 65, 83, 87.	
460.91875	do	33, 63, 65, 87.	
* *	* *	* *	*
460.93125	do	33, 63, 65, 87.	
460.9375	do	63, 65, 83, 87.	
460.94375	do	33, 63, 65, 87.	
* *	* *	* *	*
460.95625	do	33, 63, 65, 87.	
460.9625	do	63, 65, 83, 87.	
460.96875	do	33, 63, 65, 87.	
460.98125	do	33, 65, 66, 87.	
460.9875	do	65, 66, 83, 87.	
460.99375	do	33, 65, 66, 87.	
* *	* *	* *	*
461.00625	do	33, 65, 66, 87.	
461.0125	do	65, 66, 83, 87.	
461.01875	do	33, 65, 66, 87.	
* *	* *	* *	*
461.03125	Mobile	33, 86.	
461.0375	do	83, 86.	
461.04375	do	33, 86.	
461.050	Base or mobile	62.	
461.05625	Mobile	33, 86.	
461.0625	do	83, 86.	
461.06875	do	33, 86.	
461.075	Base or mobile	62.	
461.08125	Mobile	33, 86.	
461.0875	do	83, 86.	
461.09375	do	33, 86.	
461.100	Base or mobile	62.	
461.10625	Mobile	33, 86.	
461.1125	do	83, 86.	
461.11875	do	33, 86.	
461.125	Base or mobile	62.	
461.13125	Mobile	33, 86.	
461.1375	do	83, 86.	
461.14375	do	33, 86.	
461.150	Base or mobile	62.	
461.15625	Mobile	33, 86.	
461.1625	do	83, 86.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
461.16875	.....do	33, 86.	
461.175	Base or mobile	62.	
461.18125	Mobile	33, 86.	
461.1875	.....do	83, 86.	
461.19375	.....do	33, 86.	
461.200	Base or mobile	62.	
461.20625	Mobile	33, 86.	
461.2125	.....do	83, 86.	
461.21875	.....do	33, 86.	
461.225	Base or mobile	62.	
461.23125	Mobile	33, 86.	
461.2375	.....do	83, 86.	
461.24375	.....do	33, 86.	
461.250	Base or mobile	62.	
461.25625	Mobile	33, 86.	
461.2625	.....do	83, 86.	
461.26875	.....do	33, 86.	
461.275	Base or mobile	62.	
461.28125	Mobile	33, 86.	
461.2875	.....do	83, 86.	
461.29375	.....do	33, 86.	
461.300	Base or mobile	62.	
461.30625	Mobile	33, 86.	
461.3125	.....do	83, 86.	
461.31875	.....do	33, 86.	
461.325	Base or mobile	62.	
461.33125	Mobile	33, 86.	
461.3375	.....do	83, 86.	
461.34375	.....do	33, 86.	
461.350	Base or mobile	62.	
461.35625	Mobile	33, 86.	
461.3625	.....do	83, 86.	
461.36875	.....do	33, 86.	
461.375	Base or mobile	62.	
* *	* *	* *	*
462.18125	.....do	33, 84.	
462.1875	.....do	83, 84.	
462.19375	.....do	33, 84.	
* *	* *	* *	*
462.20625	.....do	33, 85.	
462.2125	.....do	83, 85.	
462.21875	.....do	33, 85.	
* *	* *	* *	*
462.23152	.....do	33, 85.	
462.2375	.....do	83, 85.	
462.24375	.....do	33, 85.	
* *	* *	* *	*
462.25625	.....do	33, 85.	
462.2625	.....do	83, 85.	
462.26875	.....do	33, 85.	
* *	* *	* *	*
462.28125	.....do	33, 85.	
462.2875	.....do	83, 85.	
462.29375	.....do	33, 85.	
* *	* *	* *	*
462.30625	.....do	33, 85.	
462.3125	.....do	83, 85.	
462.31875	.....do	33, 85.	
* *	* *	* *	*
462.33125	.....do	33, 85.	
462.33125	.....do	83, 85.	
462.34375	.....do	33, 85.	
* *	* *	* *	*
462.35625	.....do	33, 85.	
462.3625	.....do	83, 85.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
462.36875	.....do	33, 85.	
* *	* *	* *	*
462.38125	.....do	33, 85.	
462.3875	.....do	83, 85.	
462.39375	.....do	33, 85.	
* *	* *	* *	*
462.40625	.....do	33, 85.	
462.4125	.....do	83, 85.	
462.41875	.....do	33, 85.	
* *	* *	* *	*
462.43125	.....do	33, 85.	
462.4375	.....do	83, 85.	
462.44375	.....do	33, 85.	
* *	* *	* *	*
462.45625	.....do	33, 84.	
462.4625	.....do	83, 84.	
462.46875	.....do	33, 84.	
* *	* *	* *	*
462.48125	.....do	33, 84.	
462.4875	.....do	83, 84.	
462.49375	.....do	33, 84.	
* *	* *	* *	*
462.50625	.....do	33, 84.	
462.5125	.....do	83, 84.	
462.51875	.....do	33, 84.	
* *	* *	* *	*
462.7625	Mobile	67, 86.	
* *	* *	* *	*
462.7875	Mobile	67, 86.	
* *	* *	* *	*
462.8125	Mobile	67, 86.	
* *	* *	* *	*
462.8375	Mobile	67, 86.	
* *	* *	* *	*
462.8625	Mobile	67, 86.	
* *	* *	* *	*
462.8875	Mobile	67, 86.	
* *	* *	* *	*
462.9125	Mobile	67, 86.	
* *	* *	* *	*
462.9375	Mobile	88.	
* *	* *	* *	*
464.48125	Mobile	33, 86.	
464.4875	.....do	83, 86.	
464.500	Base or mobile	10, 34.	
464.5125	Mobile	83, 86.	
464.51875	.....do	33, 86.	
464.525	Base or mobile	62.	
464.53125	Mobile	33, 86.	
464.5375	.....do	83, 86.	
464.550	Base or mobile	10, 34.	
464.5625	Mobile	83, 86.	
464.56875	.....do	33, 86.	
* *	* *	* *	*
464.9875	Mobile	.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
465.0125	Mobile	88.	
465.90625	do	33, 63, 87.	
465.9125	do	63, 83, 87.	
465.91875	do	33, 63, 87.	
* *	* *	* *	*
465.93125	do	33, 63, 87.	
465.9375	do	63, 83, 87.	
465.94375	do	33, 63, 87.	
* *	* *	* *	*
465.95625	do	33, 63, 87.	
465.9625	do	63, 83, 87.	
465.96875	do	33, 63, 87.	
* *	* *	* *	*
465.98125	do	33, 66, 87.	
465.9875	do	66, 83, 87.	
465.99375	do	33, 66, 87.	
* *	* *	* *	*
466.00625	do	33, 66, 87.	
466.0125	do	66, 69, 83, 87.	
466.01875	do	33, 66, 87.	
* *	* *	* *	*
466.03125	do	33, 86.	
466.0375	do	83, 86.	
466.04375	do	33, 86.	
* *	* *	* *	*
466.05625	do	33, 86.	
466.0625	do	83, 86.	
466.06875	do	33, 86.	
* *	* *	* *	*
466.08125	do	33, 86.	
466.0875	do	83, 86.	
466.09375	do	33, 86.	
* *	* *	* *	*
466.10625	do	33, 86.	
466.1125	do	83, 86.	
466.11875	do	33, 86.	
* *	* *	* *	*
466.13125	do	33, 86.	
466.1375	do	83, 86.	
466.14375	do	33, 86.	
* *	* *	* *	*
466.15625	do	33, 86.	
466.1625	do	83, 86.	
466.16875	do	33, 86.	
* *	* *	* *	*
466.18125	do	33, 86.	
466.1875	do	83, 86.	
466.19375	do	33, 86.	
* *	* *	* *	*
466.20625	do	33, 86.	
466.2125	do	83, 86.	
466.21875	do	33, 86.	
* *	* *	* *	*
466.23125	do	33, 86.	
466.2375	do	83, 86.	
466.24375	do	33, 86.	
* *	* *	* *	*
466.25625	do	33, 86.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
466.2625	do	83, 86.	
466.26875	do	33, 86.	
*	*	*	*
466.28125	do	33, 86.	
466.2875	do	83, 86.	
466.29375	do	33, 86.	
*	*	*	*
466.30625	do	33, 86.	
466.3125	do	83, 86.	
466.31875	do	33, 86.	
*	*	*	*
466.33125	do	33, 86.	
466.3375	do	83, 86.	
466.34375	do	33, 86.	
*	*	*	*
466.35625	do	33, 86.	
466.3625	do	83, 86.	
466.36875	do	33, 86.	
*	*	*	*
467.18125	do	33, 84.	
467.1875	do	83, 84.	
467.19375	do	33, 84.	
*	*	*	*
467.20625	do	33, 85.	
467.2125	do	83, 85.	
467.21875	do	33, 85.	
*	*	*	*
467.23152	do	33, 85.	
467.2375	do	83, 85.	
467.24375	do	33, 85.	
*	*	*	*
467.25625	do	33, 85.	
467.2625	do	83, 85.	
467.26875	do	33, 85.	
*	*	*	*
467.28125	do	33, 85.	
467.2875	do	83, 85.	
467.29375	do	33, 85.	
*	*	*	*
467.30625	do	33, 85.	
467.3125	do	83, 85.	
467.31875	do	33, 85.	
*	*	*	*
467.33125	do	33, 85.	
467.3375	do	83, 85.	
467.34375	do	33, 85.	
*	*	*	*
467.35625	do	33, 85.	
467.3625	do	83, 85.	
467.36875	do	33, 85.	
*	*	*	*
467.38125	do	33, 85.	
467.3875	do	83, 85.	
467.39375	do	33, 85.	
*	*	*	*
467.40625	do	33, 85.	
467.4125	do	83, 85.	
467.41875	do	33, 85.	

INDUSTRIAL/BUSINESS POOL FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations	Coordinator
* *	* *	* *	*
467.43125	do	33, 85.	
467.4375	do	83, 85.	
467.44375	do	33, 85.	
* *	* *	* *	*
467.45625	do	33, 84.	
467.4625	do	83, 84.	
467.46875	do	33, 84.	
* *	* *	* *	*
467.48125	do	33, 84.	
467.4875	do	83, 84.	
467.49375	do	33, 84.	
* *	* *	* *	*
467.50625	do	33, 84.	
467.5125	do	83, 84.	
467.51875	do	33, 84.	
* *	* *	* *	*
467.8625	do	67, 86.	
* *	* *	* *	*
467.8875	do	67, 86.	
* *	* *	* *	*
467.9125	do	67, 86.	
* *	* *	* *	*
467.9375	do	88.	
* *	* *	* *	*
469.48125	do	33, 86.	
469.4875	do	83, 86.	
* *	* *	* *	*
469.5125	do	83, 86.	
469.51875	do	33, 86.	
* *	* *	* *	*
469.53125	do	33, 86.	
469.5375	do	83, 86.	
* *	* *	* *	*
469.5625	do	83, 86.	
469.56875	do	33, 86.	
* *	* *	* *	*

(c) * * *

(67) Medical telemetry operations are authorized on this frequency on a secondary basis. Medical telemetry operations are subject to the provisions of § 90.267(h)(2). Itinerant operations on this frequency will be prohibited until the end of the freeze on the filing of high power applications for 12.5 kHz offset channels in the 460–470 MHz band.

* * * * *

(83) Telemetry operations on this frequency will be authorized pursuant to § 90.267.

(84) Operation on this frequency is subject to the low power provisions of § 90.267. This frequency is assigned to Group A in the low power pool.

(85) Operation on this frequency is subject to the low power provisions of § 90.267. This frequency is assigned to Group B in the low power pool.

(86) Operation on this frequency is subject to the low power provisions of § 90.267. This frequency is assigned to Group C in the low power pool.

(87) Operation on this frequency is subject to the low power provisions of § 90.267. This frequency is assigned to Group D in the low power pool.

(88) Use of this frequency is on a secondary basis limited to 2 watts output power and subject to the provisions of § 90.267(h)(1), (h)(2), (h)(3) and (h)(4).

* * * * *

■ 4. Section 90.238 is amended by revising paragraphs (g) and (i) to read as follows:

§ 90.238 Telemetry operations.

* * * * *

(g) 450–470 MHz band (as available for secondary fixed operations in accordance with § 90.261 and for low power operations in accordance with § 90.267).

* * * * *

(i) For Industrial/Business frequencies which are not governed by paragraphs

(a) through (h), on frequencies available for operations up to 2 watts.

■ 5. Section 90.261 is amended by revising paragraph (f) introductory text to read as follows:

§ 90.261 Assignment and use of the frequencies in the band 450–470 MHz for fixed operation.

* * * * *

(f) Secondary fixed operations pursuant to paragraph (a) of this section will not be authorized on the following frequencies or on frequencies subject to § 90.267:

* * * * *

■ 6. Section 90.267 is revised to read as follows:

§ 90.267 Assignment and use of frequencies in the 450–470 MHz band for low power use.

(a) The following frequencies between 450–470 MHz are designated for low-power use subject to the provisions of this section. For purposes of this section these frequencies are referred to as ''low power frequencies.'' Pairs are shown but single frequencies are available for simplex operations.

(b) *Group A1 Frequencies.* The Industrial/Business Pool frequencies in Group A1 are available on a coordinated basis, pursuant to § 90.35(b)(2) and § 90.175(b), as follows:

(1) Group A1 frequencies are available for voice and non-voice operations on a co-primary basis. Base, mobile and operational fixed stations will be authorized on Group A1 frequencies. Fixed stations may be licensed as mobile.

(2) Within 80 kilometers (50 miles) of the specified coordinates of the top 100 urban areas listed in § 90.741 of this chapter (''80 km circles'') only low power operation will be authorized. The coordinates of an operational fixed or base station and the geographic center (latitude and longitude) of a mobile area of operation determine whether a station is within an ''80 km circle.''

(i) The maximum ERP for low power operation on Group A1 frequencies is as follows:

Operation	Low side of frequency pair (watts)	High side of frequency pair (watts)
Operational Fixed or Base	20	6
Mobile	6	6
Portable	2	2

(ii) The maximum antenna height for low power fixed stations on Group A1 frequencies will be 23 meters (75 feet) above ground.

(3) Outside the ''80 km circles'' defined in paragraph (b)(2), full-power operational fixed, base, or mobile stations will be authorized as follows:

(i) Power and antenna height limits are governed by § 90.205 of this chapter;

(ii) For any operational fixed, base or mobile station exceeding the low power or antenna height limits listed in paragraph (b)(2), the 21 dBu F(50,10) contour may not overlap any portion of an ''80 km circle;'' and,

(iii) Wide area operations will not be permitted. The area of normal day-to-day operations will be described in the application in terms of maximum distance from a geographic center (latitude and longitude).

(4) The Industrial/Business Pool Group A1 Low Power Frequencies are as follows:

451/456.18125
451/456.1875
451/456.19375
451/456.28125
451/456.2875
451/456.29375
451/456.30625
451/456.3125
451/456.31875
451/456.35625
451/456.3625
451/456.36875
451/456.38125
451/456.3875
451/456.39375
451/456.40625
451/456.4125
451/456.41875
451/456.45625
451/456.4625
451/456.46875
451/456.48125
451/456.4875
451/456.49375
451/456.50625
451/456.5125
451/456.51875
451/456.55625
451/456.5625
451/456.56875
451/456.58125
451/456.5875
451/456.59375
451/456.60625
451/456.6125
451/456.61875
451/456.65625
451/456.6625
451/456.66875
451/456.68125
451/456.6875
451/456.69375
451/456.70625
451/456.7125
451/456.71875
451/456.73125
451/456.7375
451/456.74375
451/456.75625
451/456.7625
451/456.76875
452/457.03125
452/457.0375
452/457.04375
452/457.05625
452/457.0625
452/457.06875
452/457.08125
452/457.0875
452/457.09375
452/457.10625
452/457.1125
452/457.11875
452/457.13125
452/457.1375
452/457.14375
452/457.15625
452/457.1625
452/457.16875
452/457.18125
452/457.1875
452/457.19375
452/457.28125
452/457.2875
452/457.29375
452/457.48125
452/457.4875
452/457.49375
452.53125 (unpaired)
452.5375 (unpaired)
452.54375 (unpaired)
452/457.63125
452/457.6375
452/457.64375
452/457.65625
452/457.6625
452/457.66875
452/457.68125
452/457.6875
452/457.69375
452/457.70625
452/457.7125
452/457.71875
452/457.78125
452/457.7875
452/457.79375
452/457.80625
452/457.8125
452/457.81875
452/457.83125
452/457.8375
452/457.84375
452/457.88125
452/457.8875
452/457.89375
452/457.98125
452/457.9875
452/457.99375
462/467.18125
462/467.1875
462/467.19375
462/467.45625
462/467.4625
462/467.46875
462/467.48125
462/467.4875
462/467.49375
462/467.50625
462/467.5125
462/467.51875

(c) *Group A2 Frequencies.* The Industrial/Business Pool frequencies in Group A2 are available nationwide on a coordinated basis, pursuant § 90.35(b)(2) and § 90.175(b) as follows:

(1) Group A2 frequencies are available for voice and non-voice operations on a co-primary basis. Base, mobile or

operational fixed stations will be authorized on Group A2 frequencies. Fixed stations may be licensed as mobile.

(2) Low power operation will be authorized nationwide on Group A2 frequencies.

(i) The maximum ERP for low power operation on these frequencies is as follows:

Operation	Low side of frequency pair	High side of frequency pair (watts)
Operational Fixed or Base	20	6
Mobile	6	6
Portable	2	2

(ii) The maximum antenna height for low power fixed stations will be 23 meters (75 feet) above ground.

(3) The Industrial/Business Pool Group A2 Low Power Frequencies are as follows:

451/456.23125	451/456.53125	452/457.40625	452/457.85625
451/456.2375	451/456.5375	452/457.4125	452/457.8625
451/456.24375	451/456.54375	452/457.41875	452/457.86875
451/456.33125	451/456.63125	452/457.50625	
451/456.3375	451/456.6375	452/457.5125	
451/456.34375	451/456.64375	452/457.51875	
451/456.43125	452/457.30625	452/457.75625	
451/456.4375	452/457.3125	452/457.7625	
451/456.44375	452/457.31875	452/457.76875	

(d) *Group B Frequencies.* The Industrial/Business Pool frequencies in Group B are available nationwide on a coordinated basis, pursuant to § 90.35(b)(2) and § 90.175(b) as follows:

(1) Group B frequencies are available for non-voice operations on a primary basis. Voice operations will be permitted on a secondary basis. Base, mobile or operational fixed stations will be authorized on Group B frequencies. Fixed stations may be licensed as mobile.

(2) Operation on these frequencies is limited to 6 watts ERP for base, mobile or operational fixed stations and 2 watts ERP for portable units. A maximum antenna height of 23 meters (75 feet) above ground is authorized for fixed stations.

(3) The Industrial/Business Pool Group B Frequencies are as follows:

462/467.20625	462/467.28125	462/467.35625	462/467.43125
462/467.2125	462/467.2875	462/467.3625	462/467.4375
462/467.21875	462/467.29375	462/467.36875	462/467.44375
462/467.23152	462/467.30625	462/467.38125	
462/467.2375	462/467.3125	462/467.3875	
462/467.24375	462/467.31875	462/467.39375	
462/467.25625	462/467.33125	462/467.40625	
462/467.2625	462/467.3375	462/467.4125	
462/467.26875	462/467.34375	462/467.41875	

(e) *Group C Frequencies.* The Industrial/Business Pool frequencies in Group C are available nationwide for non-coordinated itinerant use as follows.

(1) Group C frequencies are available for voice and non-voice operations on a co-primary basis. Only mobile operations will be authorized on Group C frequencies. Stations may operate at fixed locations for a temporary period of time. No stations operating at a permanent fixed location will be authorized on Group C frequencies.

(2) Operation on these frequencies is limited to 6 watts effective radiated power for fixed or mobile units and 2 watts ERP for portable units. Stations operating at fixed locations for a temporary period of time will be limited to an antenna height of 7 meters (20 feet) above ground.

(3) The frequencies in Group C that are subject to the provisions of § 90.35(b)(67) will not be available for itinerant use until the end of the freeze on the filing of high power applications for 12.5 kHz offset channels in the 460–470 MHz band.

(4) The Industrial/Business Pool Group C Low Power Frequencies are as follows:

461/466.03125	461/466.15625	461/466.28125	462.8125
461/466.0375	461/466.1625	461/466.2875	462.8375 (unpaired)
461/466.04375	461/466.16875	461/466.29375	462/467.8625
461/466.05625	461/466.18125	461/466.30625	462/467.8875
461/466.0625	461/466.1875	461/466.3125	462/467.9125
461/466.06875	461/466.19375	461/466.31875	464/469.48125
461/466.08125	461/466.20625	461/466.33125	464/469.4875
461/466.0875	461/466.2125	461/466.3375	464/469.5125
461/466.09375	461/466.21875	461/466.34375	464/469.51875
461/466.10625	461/466.23125	461/466.35625	464/469.53125
461/466.1125	461/466.2375	461/466.3625	464/469.5375
461/466.11875	461/466.24375	461/466.36875	464/469.5625
461/466.13125	461/466.25625	462.7625 (unpaired)	464/469.56875
461/466.1375	461/466.2625	462.7875 (unpaired)	

461/466.14375	461/466.26875	462.8125 (unpaired)

(f) *Group D Frequencies.* The Industrial/Business Pool frequencies in Group D are available for central station alarm operations on a coordinated basis, pursuant to § 90.35(b)(2) and § 90.175(b).

(1) Base, mobile or operational fixed stations will be authorized on Group D frequencies. Fixed stations may be licensed as mobile.

(2) Group D frequencies subject to § 90.35(c)(63) are limited to central station alarm use within the urban areas described in § 90.35(c)(63). Outside the urban areas described in § 90.35(c)(63), Group D frequencies subject to § 90.35(c)(63) are available for general Industrial/Business use on a coordinated basis, pursuant to § 90.35(b)(2) and § 90.175(b).

(3) Group D frequencies subject to § 90.35(c)(66) are limited to central station alarm use nationwide.

(4) Operation on Group D frequencies is limited to 2 watts output power for mobile, base or operational fixed stations. Fixed stations used for central station alarm operations may utilize antennas mounted not more than 7 meters (20 feet) above a man-made supporting structure, including antenna structure.

(5) The Industrial/Business Pool Group D Low Power Frequencies are as follows:

460/465.90625	460/465.95625	461/466.00625
460/465.9125	460/465.9625	461/466.0125
460/466.91875	460/465.96875	461/466.01875
460/465.93125	460/465.98125	
460/465.9375	460/465.9875	
460/465.94375	460/465.99375	

(g) *Low Power Public Safety Frequencies.* The frequencies in the Public Safety Pool Low Power Group are available nationwide on a coordinated basis, pursuant to § 90.20(c)(2) and § 90.175(b).

(1) Base, mobile or operational fixed stations will be authorized on Public Safety Low Power frequencies. Fixed stations may be licensed as mobile.

(2) Operation on these frequencies is limited to 6 watts effective radiated power for base, mobile or operational fixed stations and 2 watts ERP for portable units. A maximum antenna height of 7 meters (20 feet) above ground is authorized for fixed stations.

(3) The Public Safety Pool Low Power Frequencies are as follows:

453/458.03125	453/458.13125	453/458.95625	460/465.53125
453/458.0375	453/458.1375	453/458.9625	460/465.5375
453/458.04375	453/458.14375	453/458.96875	460/465.54375
453/458.05625	453/458.88125	453/458.98125	460/465.55625
453/458.0625	453/458.8875	453/458.9875	460/465.5625
453/458.06875	453/458.89375	453/458.99375	460/465.56875
453/458.08125	453/458.90625	460/465.48125	
453/458.0875	453/458.9125	460/465.4875	
453/458.09375	453/458.91875	460/465.49375	
453/458.10625	453/458.93125	460/465.50625	
453/458.1125	453/458.9375	460/465.5125	
453/458.11875	453/458.94375	460/465.51875	

(h) Unless otherwise noted, the following conditions apply to all low power frequencies:

(1) Except for itinerant operations on Group C, wide area operations will not be authorized. The area of normal day-to-day operations will be described in the application in terms of maximum distance from a geographic center (latitude and longitude).

(2) A hospital or health care institution holding a license to operate a radio station under this part may operate a medical radio telemetry device with an output power not to exceed 20 milliwatts without specific authorization from the Commission. All licensees operating under this authority must comply with the requirements and limitations set forth in this section.

(3) No limit shall be placed on the length or height above ground level of any commercially manufactured radiating transmission line when the transmission line is terminated in a non-radiating load and is routed at least 7 meters (20 feet) interior to the edge of any structure or is routed below ground level.

(4) Sea-based stations may utilize antennas mounted not more than 7 meters (20 feet) above a man-made supporting structure, including antenna structures.

(5) Continuous carrier operations are prohibited on these frequencies.

(6) Unless specified elsewhere in this part, licensees as of August 5, 1999, licensed for operations with an emission designator wider than 11.25 kHz on low power frequencies that are subject to an authorized bandwidth of 11.25 kHz, may obtain primary status with respect to co-channel licensees by supplying their coordinates to the Commission. These licensees will continue to operate on a secondary basis with respect to adjacent channel licensees. Additionally, these licensees may continue to operate with an authorized bandwidth wider than 11.25 kHz on such low power frequencies, subject to the provisions of § 90.209(b) of this chapter.

(7) Unless specified elsewhere in this part, licensees as of August 5, 1999, licensed for operations with an emission designator wider than 11.25 kHz on frequencies that are subject to an authorized bandwidth of 11.25 kHz, which are not low power frequencies, may obtain primary status with respect to co-channel licensees by modifying their license to low power frequencies, supplying their coordinates to the Commission, and otherwise complying with the conditions of paragraphs (b) through (g) of this section. These licensees will continue to operate on a

secondary basis with respect to adjacent channel licensees. Additionally, these licensees may continue to operate with an authorized bandwidth wider than 11.25 kHz on such low power frequencies, subject to the provisions of § 90.209(b) of this chapter.

(8) Applicants proposing to operate with an authorized bandwidth wider than 11.25 kHz, on low power frequencies that are subject to an authorized bandwidth of 11.25 kHz, may be licensed on a secondary, non-interference basis. Such applicants are subject to the conditions of paragraphs (b) through (g) of this section and the provisions of § 90.209(b) of this chapter.

[FR Doc. 03–9667 Filed 4–18–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030414084–3084–01; I.D. 021202A]

RIN 0648–AR02

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan Regulations

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues a correction to final rules implementing the Atlantic Large Whale Take Reduction Plan (ALWTRP) in order to correct unintended errors from the preamble and regulatory text in the final rules published in the **Federal Register** on February 16, 1999 and September 23, 2002. This technical amendment clarifies the requirements for shark gillnet gear in the southeast U.S. and corrects an error regarding fisheries affected by the final rules.

DATES: Effective April 21, 2003.

ADDRESSES: Copies of the Environmental Assessment (EA), the Regulatory Impact Review (RIR), and the Regulatory Flexibility Act (RFA) analysis for the final rules that are being corrected are available from Protected Resources Division, NMFS/Southeast Region, 9721 Executive Center Dr. North, St. Petersburg, FL 33702–2432. The ALWTRP Compliance guide, Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and a progress report on implementation of the ALWTRP may be obtained by writing to Diane Borggaard, NMFS/Northeast Region, 1 Blackburn Dr., Gloucester, MA 01930 or to Katie Moore, NMFS/Southeast Region, 9721 Executive Center Dr., St. Petersburg, FL 33702–2432. Copies of the EA, the RIR, and the RFA analysis may also be obtained from the ALWTRP web site listed (See Electronic Access).

FOR FURTHER INFORMATION CONTACT: Katie Moore, NMFS, Southeast Region, 727–570–5312; Diane Borggaard, NMFS, Northeast Region, 978–281–9145; or Patricia Lawson, NMFS, Office of Protected Resources, 301–713–2322. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 4 p.m. Eastern time, Monday through Friday, excluding Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for this technical amendment and the take reduction planning process may be obtained from the ALWTRP web site: *http://www.nero.nmfs.gov/whaletrp/*. Copies of the most recent Stock Assessment Reports may be downloaded from the Internet at *http://www.nefsc.nmfs.gov/psb/assesspdfs.htm*. Information on disentanglement events is available on the web page of NMFS' whale disentanglement contractor, the Center for Coastal Studies, *http://www.coastalstudies.org/*.

Background

NMFS published a final rule (67 FR 59471, September 23, 2002) implementing approved modifications in the ALWTRP recommended by the ALWTRT to satisfy the requirements of the Endangered Species Act and the Marine Mammal Protection Act (MMPA). Details concerning the justification for and development of the rule were provided in the preamble to the proposed rule (67 FR 14690, March 27, 2002) and are not repeated here.

This technical amendment clarifies and corrects the preamble to the final rule. By truncating the definition of the Southeast Atlantic gillnet fishery and misstating a word, the rule incorrectly defined the fisheries affected. On page 59472, column 1, the first paragraph, second sentence under *Changes Proposed for the ALWTRP for Gillnet Gear* in the preamble should read:

''This final rule regulates the MMPA's List of Fisheries (LOF) definition for the Southeast Atlantic gillnet fishery which includes any type of gillnet gear for any species (except shark gillnetting effort using 5–inch (12.7–cm) or greater stretched mesh south of the South Carolina/Georgia border) in waters south of a line extending due east from the North Carolina/South Carolina border and south and east of the fishery management council demarcation line between the Atlantic Ocean and the Gulf of Mexico (50 CFR 600.105).''

Fishing for sharks with strikenet gear is exempt from restrictions detailed in 50 CFR 229.32(f)(4) if the fishers adhere to a list of requirements. All of the requirements must be met in order for this exemption to apply. For clarity, NMFS is adding the term ''and'' before the last requirement of the list. The term ''and'' was included in the proposed rule (62 FR 16519, April 7, 1997), the interim final rule's comments and responses (62 FR 29157, July 22, 1997, comment 67), but was inadvertently omitted from the interim final rule and the final rule (64 FR 7529, February 16, 1999) regulatory text.

This final rule will also correct an error in the regulatory text of the February 16, 1999 final rule (64 FR 7529) by deleting the reference to minke whales. Two of the requirements necessary to obtain an exemption, as discussed in the previous paragraph of this preamble, specifically relate to a list of whale species included in that regulatory provision. Minke whale was not in this list of species in the proposed rule (April 7, 1997, 62 FR 16519) or the interim final rule (62 FR 39157, July 22, 1997). However, minke whale was included in this list of species in the regulatory text of final rule (64 FR 7529, February 16, 1999) without explanation and NMFS did not intend to include it.

Classification

The Assistant Administrator (AA) finds that good cause exists to waive the requirement to provide prior notice and the opportunity for comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B), as such procedures would be unnecessary. Prior notice and opportunity for comment are unnecessary because the technical amendments merely correct the preamble and inadvertent changes to regulatory text and will have a de minimis effect, if any, on the regulated community. The corrections do not increase the scope of the regulated community nor add new requirements. Because this portion of the rule corrects and clarifies provisions and makes non-

substantive or de minimis changes to the ALWTRP regulations, good cause exists under 5 U.S.C. 553(d) not to delay the effective date of this final rule for 30 days.

In addition, in regard to removing minke whales from the regulatory text, NMFS did not intend to change the regulatory text to include minke whales and had no authority to do so; therefore, NMFS has no discretion in the decision to correct the provision. Because this portion of the rule relieves a restriction, it is not subject to a 30–day delay in effective date.

Because a general notice of proposed rulemaking is not required for this final rule under 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, and Marine mammals.

Dated: April 15, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, the National Marine Fisheries Service amends 50 CFR part 229 as follows:

PART 229—AUTHORIZATION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1371 *et seq.*

■ 2. In § 229.32, paragraph (f)(4)(iv) is revised to read as follows:

§ 229.32 Atlantic large whale take reduction plan regulations.

* * * * *

(f) * * *

(4) * * *

(iv) *Special provision for strikenets.* Fishing for sharks with strikenet gear is exempt from the restrictions under paragraphs (f)(4)(ii) and (f)(4)(iii) of this section if:

(A) No nets are set at night or when visibility is less than 500 yards (460m);

(B) Each set is made under the observation of a spotter plane;

(C) No net is set within 3 nautical miles of a right, humpback or fin whale; and

(D) If a right, humpback or fin whale moves within 3 nautical miles of the set gear, the gear is removed immediately from the water.

* * * * *

[FR Doc. 03–9786 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021212307–3037–02; I.D. 041503A]

Fisheries of the Exclusive Economic Zone off Alaska; Yellowfin Sole by Vessels Using Trawl Gear in Bering Sea and Aleutian Islands Management Area

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

ACTION: Closure.

SUMMARY: NMFS is closing directed fishing for yellowfin sole by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal apportionment of the halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), April 17, 2003, through 1200 hrs, May 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and CFR part 679.

The second seasonal apportionment of the halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI is 195 metric tons as established by the final 2003 harvest specifications for Groundfish of the BSAI (68 FR 9907, March 3, 2003).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the amount of the second seasonal apportionment of the halibut bycatch allowance specified for the trawl yellowfin sole fishery category in the BSAI will be caught. Consequently, NMFS is closing directed fishing for species in the yellowfin sole fishery category by vessels using trawl gear in the BSAI.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the second seasonal apportionment of the halibut bycatch allowance specified, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: April 15, 2003.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–9751 Filed 4–16–03;1:53 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 76
Monday, April 21, 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

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV03–916–3]

Nectarines and Peaches Grown in California; Announcement of Public Meeting To Review Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: Notice is hereby given that a public meeting will be held to provide information to the U. S. Department of Agriculture (USDA) on whether the Federal marketing order programs for California nectarines and peaches should be continued, modified or terminated. Growers, handlers, and other interested persons are invited to submit written comments to USDA and/or present oral comments at the meeting with respect to the continued operations of the marketing order programs.

DATES: The public meeting will begin at 8:30 a.m. P.D.T. on May 20, 2003, and continue until 5 p.m. The meeting will continue on May 21, 2003, from 8:30 a.m. to 12 p.m., if necessary. The meeting will be held at the Dinuba Memorial Building, 249 South Alta Avenue, Dinuba, California; telephone: 559–591–2223. Written comments will be received through June 20, 2003.

ADDRESSES: Written comments should be sent to California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, 2202 Monterey Street, Suite 102B, Fresno, California 93721, Attention: Kurt Kimmel; telephone: (559) 487–5901, Fax: (559) 487–5906 or E-mail: *moab.docketclerk@usda.gov.* All written comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the California Marketing Field Office during regular business hours or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Written comments received before the meeting will also be available for public inspection at the meeting.

FOR FURTHER INFORMATION CONTACT: Kathleen M. Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, or Fax: (202) 720–8938.

SUPPLEMENTARY INFORMATION: Continuance referenda were held from January 6 through January 31, 2003, to determine whether the marketing order programs for nectarines, pears and peaches grown in California should be continued. Results of the pear continuance referendum demonstrated support for the pear program to be continued. However, in the nectarine and peach referenda, fewer than two-thirds of those voting supported continuation of the programs. This notice announces a meeting to provide additional information for USDA on the marketing order programs for nectarines (M.O. 916) and peaches (M.O. 917) to evaluate the future of these programs.

On March 27, 2003, USDA announced it would hold listening sessions in the production area. The meeting will provide an opportunity for those in the industry to present detailed information on the present performance of the two marketing order programs. Information regarding present performance may include an analysis of the programs' cost effectiveness with regard to administration, research and advertising. USDA also seeks comments on whether amendment of some of the regulatory aspects of the two programs would make the programs more effective and create more support among growers and handlers. Finally, USDA seeks views on whether the orders for nectarines and peaches should be terminated. Interested persons are encouraged to send written comments to USDA and/or present oral comments at the meeting. Because we do not intend to transcribe the oral comments at the meeting, oral commenters are encouraged to submit their comments also in writing for best consideration.

Written comments, views, opinions, and other information regarding the nectarine, pear, and peach marketing orders' impact on small businesses are invited.

Dated: April 15, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–9672 Filed 4–18–03; 8:45 am]

BILLING CODE 3410–02–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 35

RIN 3150–AH08

Medical Use of Byproduct Material: Clarifying and Minor Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations regarding the medical use of byproduct material. This action would clarify the definitions of authorized users, authorized medical physicists, authorized nuclear pharmacists, and radiation safety officers; clarify the notification requirements if the patient is in a medical emergency or dies; clarify the recordkeeping requirements for calibration of brachytherapy sources; correct the title for the National Institute of Standards and Technology; clarify that prior to October 24, 2004, individuals who meet the training and experience requirements in Subpart J may undertake responsibilities specified in certain sections in Subparts B and D–H; and eliminate a restriction that training for ophthalmic use of strontium-90 can only be conducted in medical institutions. These amendments are necessary to clarify certain inconsistencies within the regulations and to allow training in ophthalmic treatment to be conducted in eye clinics or private practices, in addition to medical institutions.

DATES: Comments on the proposed rule must be received on or before May 21, 2003.

ADDRESSES: You may submit comments by any one of the following methods. Please include the following number (RIN 3150-AHO8) in the subject line of your comments. Comments on rulemakings submitted in writing or in electronic form will be made available

to the public in their entirety on the NRC rulemaking Web site. Personal information will not be removed from your comments.

Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

E-mail comments to: *SECY@nrc.gov*. If you do not receive a reply e-mail confirming that we have received your comments, contact us directly at (301) 415–1966. You may also submit comments via the NRC's rulemaking Web site at *http://ruleforum.llnl.gov.* Address questions about our rulemaking Web site to Carol Gallagher (301) 415–5905; email *cag@nrc.gov.*

Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. Federal workdays. (Telephone (301) 415–1966).

Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at (301) 415–1101.

Publicly available documents related to this rulemaking may be examined and copied for a fee at the NRC's Public Document Room (PDR), Public File Area O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. Selected documents, including comments, can be viewed and downloaded electronically via the NRC rulemaking Web site at *http://ruleforum.llnl.gov.*

Publicly available documents created or received at the NRC after November 1, 1999, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/NRC/ADAMS/index.html.* From this site, the public can gain entry into the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, (301) 415–4737 or by email to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Anthony N. Tse, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone (301) 415–6233, email: *ant@nrc.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the Rules and Regulations section of this **Federal Register**.

Because the NRC considers this action noncontroversial and routine, we are publishing this proposed rule concurrently as a direct final rule. The direct final rule will become effective on July 7, 2003. However, if the NRC receives significant adverse comments on the direct final rule, by May 21, 2003, the NRC will publish a document that withdraws the direct final rule. If the direct final rule is withdrawn, the NRC will address the comments received in response to the proposed revisions in a subsequent final rule. Absent significant modifications to the proposed revisions requiring republication, the NRC will not initiate a second comment period for this action if the direct final rule is withdrawn.

A significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change. A comment is adverse and significant if:

(1) The comment opposes the rule and provides a reason sufficient to require a substantive response in a notice-and-comment process. For example, a substantive response is required when—

(A) The comment causes the staff to reevaluate (or reconsider) its position or conduct additional analysis;

(B) The comment raises an issue serious enough to warrant a substantive response to clarify or complete the record; or

(C) The comment raises a relevant issue that was not previously addressed or considered by the staff.

(2) The comment proposes a change or an addition to the rule and it is apparent that the rule would be ineffective or unacceptable without incorporation of the change or addition.

(3) The comment causes the staff to make a change (other than editorial) to the rule.

List of Subjects in 10 CFR Part 35

Byproduct material, Criminal penalties, Drugs, Health facilities, Health professions, Medical devices, Nuclear materials, Occupational safety and health, Radiation protection, Reporting and recordkeeping requirements.

For reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 553; the NRC is proposing to adopt the following amendments to 10 CFR part 35.

PART 35—MEDICAL USE OF BYPRODUCT MATERIAL

1. The authority citation for part 35 continues to read as follows:

Authority: Secs. 81, 161, 182, 183, 68 Stat. 935, 948, 953, 954, as amended (42 U.S.C. 2111, 2201, 2232, 2233); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841).

2. In § 35.2, the definitions for *authorized medical physicist, authorized nuclear pharmacist, authorized user,* and *radiation safety officer,* are amended by revising paragraph (1) of each definition to read as follows:

§ 35.2 Definitions.

* * * * *

Authorized medical physicist means an individual who—

(1) Meets the requirements in §§ 35.51(a) and 35.59; or, before October 24, 2004, meets the requirements in §§ 35.961(a), or (b), and 35.59; or

* * * * *

Authorized nuclear pharmacist means a pharmacist who—

(1) Meets the requirements in §§ 35.55(a) and 35.59; or, before October 24, 2004, meets the requirements in §§ 35.980(a) and 35.59; or

* * * * *

Authorized user means a physician, dentist, or podiatrist who—

(1) Meets the requirements in §§ 35.59 and 35.190(a), 35.290(a), 35.390(a), 35.392(a), 35.394(a), 35.490(a), 35.590(a), or 35.690(a); or, before October 24, 2004, meets the requirements in §§ 35.910(a), 35.920(a), 35.930(a), 35.940(a), 35.950(a), or 35.960(a) and 35.59; or

* * * * *

Radiation Safety Officer means an individual who—

(1) Meets the requirements in §§ 35.50(a) and 35.59; or, before October 24, 2004, meets the requirements in §§ 35.900(a) and 35.59; or

* * * * *

3. In § 35.51, the second sentence of paragraph (b)(2) is revised to read as follows:

§ 35.51 Training for an authorized medical physicist.

* * * * *

(b) * * *

(2) * * * The written certification must be signed by a preceptor authorized medical physicist who meets the requirements in § 35.51, or, before October 24, 2004, § 35.961, or equivalent Agreement State requirements for an authorized medical physicist for each type of therapeutic medical unit for which the individual is requesting authorized medical physicist status.

4. In § 35.100, paragraph (b) is revised to read as follows:

§ 35.100 Use of unsealed byproduct material for uptake, dilution, and excretion studies for which a written directive is not required.

* * * * *

(b) Prepared by:

(1) An authorized nuclear pharmacist;

(2) A physician who is an authorized user and who meets the requirements specified in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920; or

(3) An individual under the supervision, as specified in § 35.27, of the authorized nuclear pharmacist in paragraph (b)(1) of this section or the physician who is an authorized user in paragraph (b)(2) of this section; or

* * * * *

5. In § 35.190, paragraph (b), the introductory text of paragraph (c)(1)(ii), and paragraph (c)(2) are revised to read as follows:

§ 35.190 Training for uptake, dilution, and excretion studies.

* * * * *

(b) Is an authorized user under §§ 35.290, 35.390, or, before October 24, 2004, §§ 35.910, 35.920, or 35.930, or equivalent Agreement State requirements; or

* * * * *

(c) * * *

(1) * * *

(ii) Work experience, under the supervision of an authorized user who meets the requirements in §§ 35.190, 35.290, 35.390, or, before October 24, 2004, §§ 35.910, 35.920, or 35.930, or equivalent Agreement State requirements, involving—

* * * * *

(2) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in §§ 35.190, 35.290, 35.390, or, before October 24, 2004, §§ 35.910, 35.920, or 35.930, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraph (c)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under § 35.100.

6. In § 35.200, paragraph (b) is revised to read as follows:

§ 35.200 Use of unsealed byproduct material for imaging and localization studies for which a written directive is not required.

* * * * *

(b) Prepared by:

(1) An authorized nuclear pharmacist;

(2) A physician who is an authorized user and who meets the requirements specified in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920; or

(3) An individual under the supervision, as specified in § 35.27, of the authorized nuclear pharmacist in paragraph (b)(1) of this section or the physician who is an authorized user in paragraph (b)(2) of this section;

* * * * *

7. In § 35.290, paragraph (b), the introductory text of paragraph (c)(1)(ii), and paragraph (c)(2) are revised to read as follows:

§ 35.290 Training for imaging and localization studies.

* * * * *

(b) Is an authorized user under § 35.390, or, before October 24, 2004, § 35.920, or equivalent Agreement State requirements; or

(c) * * *

(1) * * *

(ii) Work experience, under the supervision of an authorized user, who meets the requirements in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920, or equivalent Agreement State requirements, involving —

* * * * *

(2) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraph (c)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under §§ 35.100 and 35.200.

8. In § 35.300, paragraph (b) is revised to read as follows:

§ 35.300 Use of unsealed byproduct material for which a written directive is required.

* * * * *

(b) Prepared by:

(1) An authorized nuclear pharmacist;

(2) A physician who is an authorized user and who meets the requirements specified in §§ 35.290, 35.390, or, before October 24, 2004, § 35.920; or

(3) An individual under the supervision, as specified in § 35.27, of the authorized nuclear pharmacist in paragraph (b)(1) of this section or the physician who is an authorized user in paragraph (b)(2) of this section; or

* * * * *

9. In § 35.310, paragraph (a)(5) is revised to read as follows:

§ 35.310 Safety instruction.

(a) * * *

(5) Notification of the Radiation Safety Officer, or his or her designee, and an authorized user if the patient or the human research subject has a medical emergency or dies.

* * * * *

10. In § 35.315, paragraph (b) is revised to read as follows:

§ 35.315 Safety precautions.

* * * * *

(b) A licensee shall notify the Radiation Safety Officer, or his or her designee, and an authorized user as soon as possible if the patient or human research subject has a medical emergency or dies.

11. In § 35.390, the introductory text of paragraph (b)(1)(ii) and paragraph (b)(2) are revised to read as follows:

§ 35.390 Training for use of unsealed byproduct material for which a written directive is required

(b) * * *

(1) * * *

(ii) Work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390(a), 35.390(b), or, before October 24, 2004, § 35.930, or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in § 35.390(b) or, before October 24, 2004, § 35.930(b), must also have experience in administering dosages in the same dosage category or categories (*i.e.*, § 35.390(b)(1)(ii)(G)(*1*), (*2*), (*3*), or (*4*)) as the individual requesting authorized user status. The work experience must involve—

* * * * *

(2) Has obtained written certification that the individual has satisfactorily completed the requirements in paragraph (b)(1) of this section and has achieved a level of competency sufficient to function independently as an authorized user for the medical uses authorized under § 35.300. The written certification must be signed by a preceptor authorized user who meets the requirements in §§ 35.390(a), 35.390(b), or, before October 24, 2004, § 35.930, or equivalent Agreement State requirements. The preceptor authorized user, who meets the requirements in § 35.390(b) or, before October 24, 2004, § 35.930(b), must also have experience in administering dosages in the same dosage category or categories (*i.e.*, § 35.390(b)(1)(ii)(G)(*1*), (*2*), (*3*), or (*4*)) as the individual requesting authorized user status.

12. In § 35.392, paragraph (b), the introductory text of paragraph (c)(2), and paragraph (c)(3) are revised to read as follows:

§ 35.392 Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities less than or equal to 1.22 Gigabecquereis (33 millicuries).

* * * * *

(b) Is an authorized user under §§ 35.390(a), 35.390(b) for uses listed in § 35.390(b)(1)(ii)(G)(*1*) or (*2*), § 35.394, or, before October 24, 2004, §§ 35.930, 35.932, or 35.934, or equivalent Agreement State requirements; or

(c) * * *

(2) Has work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390(a), 35.390(b), 35.392, 35.394, or, before October 24, 2004, §§ 35.930, 35.932, or 35.934, or equivalent Agreement State requirements. A supervising authorized user who meets the requirements in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*1*) or (*2*). The work experience must involve—

* * * * *

(3) Has obtained written certification that the individual has satisfactorily completed the requirements in paragraphs (c)(1) and (c)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under § 35.300. The written certification must be signed by a preceptor authorized user who meets the requirements in §§ 35.390(a), 35.390(b), 35.392, 35.394, or, before October 24, 2004, §§ 35.930, 35.932, or 35.934, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirement in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*1*) or (*2*).

13. In § 35.394, paragraph (b), the introductory text of paragraph (c)(2), and paragraph (c)(3) are revised to read as follows:

§ 35.394 Training for the oral administration of sodium iodide I–131 requiring a written directive in quantities greater than 1.22 Gigabecquereis (33 millicuries).

* * * * *

(b) Is an authorized user under §§ 35.390(a), 35.390(b) for uses listed in § 35.390(b)(1)(ii)(G)(*2*), or, before October 24, 2004, §§ 35.930 or 35.934, or equivalent Agreement State requirements; or

(c) * * *

(2) Has work experience, under the supervision of an authorized user who meets the requirements in §§ 35.390(a), 35.390(b), 35.394, or, before October 24, 2004, §§ 35.930 or 35.934, or equivalent Agreement State requirements. A supervising authorized user, who meets the requirements in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*). The work experience must involve—

* * * * *

(3) Has obtained written certification that the individual has satisfactorily completed the requirements in paragraphs (c)(1) and (c)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user for medical uses authorized under § 35.300. The written certification must be signed by a preceptor authorized user who meets the requirements in §§ 35.390(a), 35.390(b), 35.394, or, before October 24, 2004, §§ 35.930 or 35.934, or equivalent Agreement State requirements. A preceptor authorized user, who meets the requirements in § 35.390(b), must also have experience in administering dosages as specified in § 35.390(b)(1)(ii)(G)(*2*).

14. In § 35.432, paragraph (b) is revised to read as follows:

§ 35.432 Calibration measurements of brachytherapy sources.

* * * * *

(b) Instead of a licensee making its own measurements as required in paragraph (a) of this section, the licensee may use measurements provided by the source manufacturer or by a calibration laboratory accredited by the American Association of Physicists in Medicine that are made in accordance with paragraph (a) of this section.

* * * * *

15. In § 35.490, the introductory text of paragraph (b)(1)(ii), paragraphs (b)(2), and (b)(3) are revised to read as follows:

§ 35.490 Training for use of manual brachytherapy sources.

* * * * *

(b) * * *

(1) * * *

(ii) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in § 35.490, or, before October 24, 2004, § 35.940, or equivalent Agreement State requirements at a medical institution, involving—

* * * * *

(2) Has obtained 3 years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in § 35.490, or, before October 24, 2004, § 35.940, or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (b)(1)(ii) of this section; and

(3) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in § 35.490, or, before October 24, 2004, § 35.940, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraphs (b)(1) and (b)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user of manual brachytherapy sources for the medical uses authorized under § 35.400.

16. In § 35.491, paragraph (a), the introductory text of paragraph (b)(2), and paragraph (b)(3) are revised to read as follows:

§ 35.491 Training for ophthalmic use of strontium-90.

* * * * *

(a) Is an authorized user under § 35.490, or, before October 24, 2004, §§ 35.940 or 35.941, or equivalent Agreement State requirements; or

(b) * * *

(2) Supervised clinical training in ophthalmic radiotherapy under the supervision of an authorized user at a medical institution, clinic, or private practice that includes the use of strontium-90 for the ophthalmic treatment of five individuals. This supervised clinical training must involve—

* * * * *

(3) Has obtained written certification, signed by a preceptor authorized user who meets the requirements in §§ 35.490, 35.491, or, before October 24, 2004, §§ 35.940 or 35.941, or equivalent Agreement State requirements, that the individual has satisfactorily completed the requirements in paragraphs (a) and (b) of this section and has achieved a level of competency sufficient to function independently as an authorized user of strontium-90 for ophthalmic use.

17. In § 35.630, paragraph (a)(1) is revised to read as follows:

§ 35.630 Dosimetry equipment.

(a) * * *

(1) The system must have been calibrated using a system or source traceable to the National Institute of Standards and Technology (NIST) and published protocols accepted by nationally recognized bodies; or by a

calibration laboratory accredited by the American Association of Physicists in Medicine (AAPM). The calibration must have been performed within the previous 2 years and after any servicing that may have affected system calibration; or

* * * * *

18. In § 35.690, the introductory text of paragraph (b)(1)(ii), and paragraphs (b)(2) and (b)(3) are revised to read as follows:

§ 35.690 Training for use of remote afterloader units, teletherapy units, and gamma stereotactic radiosurgery units.

* * * * *

(b) * * *

(1) * * *

(ii) 500 hours of work experience, under the supervision of an authorized user who meets the requirements in § 35.690, or, before October 24, 2004, § 35.960, or equivalent Agreement State requirements at a medical institution, involving—

* * * * *

(2) Has completed 3 years of supervised clinical experience in radiation oncology, under an authorized user who meets the requirements in § 35.690, or, before October 24, 2004, § 35.960, or equivalent Agreement State requirements, as part of a formal training program approved by the Residency Review Committee for Radiation Oncology of the Accreditation Council for Graduate Medical Education or the Committee on Postdoctoral Training of the American Osteopathic Association. This experience may be obtained concurrently with the supervised work experience required by paragraph (b)(1)(ii) of this section; and

(3) Has obtained written certification that the individual has satisfactorily completed the requirements in paragraphs (b)(1) and (b)(2) of this section and has achieved a level of competency sufficient to function independently as an authorized user of each type of therapeutic medical unit for which the individual is requesting authorized user status. The written certification must be signed by a preceptor authorized user who meets the requirements in § 35.690, or, before October 24, 2004, § 35.960, or equivalent Agreement State requirements for an authorized user for each type of therapeutic medical unit for which the individual is requesting authorized user status.

19. In § 35.2432, paragraph (b)(5) is revised to read as follows:

§ 35.2432 Records of calibration measurements of brachytherapy sources.

* * * * *

(b) * * *

(5) The name of the individual, the source manufacturer, or the calibration laboratory that performed the calibration.

Dated at Rockville, Maryland, this 31st day of March, 2003.

For the Nuclear Regulatory Commission.

William D. Travers,

Executive Director for Operations.

[FR Doc. 03–9602 Filed 4–18–03; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA– 2003–14693; Airspace Docket No. 03–AGL–03]

Proposed Modification of Class E Airspace; South Bend, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class E airspace at South Bend, IN. Standard Instrument Approach Procedures (SIAPS) have been developed for South Bend Regional Airport, South Bend, IN. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action would increase the area of the existing controlled airspace for South Bend Regional Airport.

DATES: Comments must be received on or before June 16, 2003.

ADDRESSES: Send comments on the proposal 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–2003–14693/ Airspace Docket No. 03–AGL–03, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, 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 Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–14693/Airspace Docket No. 03–AGL–03.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://dms.dot.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov* or the Superintendent of Document's Web page at *http://www.access.gpo.gov/nara.*

Additionally, any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Air Traffic

Airspace Management, ATA–400, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–8783. Communications must identify both docket numbers for this notice. Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at South Bend, IN, for South Bend Regional Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL IN E5 South Bend, IN [Revised]

South Bend, South Bend Regional Airport, IN
(Lat. 41°42′31″ N., long. 86°19′02″ W.)
Niles, Jerry Tyler Memorial Airport, MI
(Lat. 41°50′09″ N., long. 86°13′31″ W.)
Gipper VORTAC
(Lat. 41°46′07″ N., long. 86°19′06″ W.)
That airspace extending upward from 700 feet above the surface within an 8.0-mile radius of South Bend Regional Airport and within 4.4 miles south and 7 miles north of the South Bend ILS localizer east course, extending from South Bend Regional Airport to 10.5 miles east of the ILS outer marker and within 4.4 miles west and 7 miles east of the Gipper VORTAC 001° radial, extending from the South Bend Regional Airport to 10.5 miles north of the VOR and within a 6.4-mile radius of the Jerry Tyler Memorial Airport, excluding that airspace within the Dowagiac, MI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on April 1, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–9729 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 111 and 112

RIN 0910–AB88

[Docket No. 96N–0417]

Dietary Supplements; Current Good Manufacturing Practice Proposed Regulation; 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 the proposed rule on current good manufacturing practice in manufacturing, packing, or holding dietary ingredients and dietary supplements that published in the **Federal Register** of March 13, 2003. This satellite downlink public meeting is intended to provide clarification of the proposed rule and to explain how to submit comments on the proposed rule. This meeting will provide stakeholders, including small business, an opportunity to ask questions about the proposed rule by telephone, e-mail, or FAX. Questions also may be submitted in advance of the satellite downlink public meeting until the day before the downlink (see **FOR FURTHER INFORMATION CONTACT** section of this document).

DATES: The public meeting via satellite downlink will be held on May 9, 2003, from 12:30 p.m. to 3:30 p.m. eastern daylight time.

ADDRESSES: Downlink sites for the public meeting will be Food and Drug Administration District and Regional Offices for FDA employees. Small businesses wishing to view the satellite downlink should contact their Regional Small Business Representative. Regional representatives are listed at the Office of Regulatory Affairs' Web site at: *http://www.fda.gov/ora/fed_state/Small_business/sb_guide/smbusrep.htm*, or go to *http://www.fda.gov/ora/fed_state/events/default.htm* for a list of public viewing sites.

State and local counterparts who wish to participate may consider any local viewing location that has access to a C-band steerable dish.

Viewers with access to a steerable dish capable of receiving a C-band satellite signal may wish to tune this meeting in themselves. Tuning coordinates and course materials will be

placed on the Center for Food Safety and Applied Nutrition (CFSAN) Web site at: *http://www.cfsan.fda.gov/~dms/supplmnt.html* when available.

FOR FURTHER INFORMATION CONTACT: Bradford W. Williams, Center for Food Safety and Applied Nutrition (HFS–810), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, telephone: 301–436–1440, FAX: 301–436–2636, e-mail: *Brad.Williams@cfsan.fda.gov* for general questions about the downlink and submission of advance questions.

SUPPLEMENTARY INFORMATION:

I. Background

The Dietary Supplement Health and Education Act of 1994 (DSHEA) (Public Law 103–417) amended the Federal Food, Drug, and Cosmetic Act to, among other things, provide FDA with express statutory authority to prescribe current good manufacturing practice (CGMP) regulations for dietary supplements (21 U.S.C. 342(g)). In the **Federal Register** of March 13, 2003 (68 FR 12157), FDA published a proposed rule entitled ''Current Good Manufacturing Practice in Manufacturing, Packing, or Holding Dietary Ingredients and Dietary Supplements'' to establish CGMPs that include provisions on manufacturing, packaging, labeling, testing, quality control, releasing for distribution, and holding of dietary ingredients and dietary supplements. The proposed CGMPs are intended to help ensure that manufacturing, packing, and holding practices will not result in an adulterated or misbranded dietary supplement.

This downlink meeting will provide an opportunity to brief stakeholders on the proposed rule and allow them to ask questions about the proposed rule. It is also intended to fulfill part of the outreach requirements of the Small Business Regulatory Enforcement Fairness Act of 1996. The half-day meeting will focus on information for manufacturers, both large and small, with an emphasis on assistance to small firms. Small firms are encouraged to view and participate in this downlink meeting.

II. Agenda

The agenda will include an overview of the proposed rule with the following specific topics: (1) Personnel, (2) physical plant, (3) equipment and utensils, (4) production and process controls, (5) holding and distribution, (6) consumer complaints, and (7) recordkeeping. In addition to explaining the content of the proposed rule, we will instruct participants on the process for submitting comments. We also will discuss the types of comments and supporting information that would be most helpful to the agency in developing a final rule. Lastly, the meeting will describe how the Small Business Administration (SBA) can help small firms that might be affected by the proposed rule.

The primary intended audience is dietary ingredient and dietary supplement manufacturers, packagers, distributors, and holders, including small businesses, their representatives and consultants; Federal, State and local representatives; and FDA small business representatives and other interested FDA staff. Viewers are encouraged to watch the satellite program and participate in the question and answer periods. Any interested parties with access to a satellite dish may view the downlink directly. For specific technical details, including tuning coordinates, check the CFSAN Web site at: *http://www.cfsan.fda.gov/~dms/supplmnt.html* under ''Recent Announcements'' before the meeting.

Before the broadcast, we suggest that interested parties read the section in the March 13, 2003 (68 FR 12157), proposed rule entitled ''Proposal Highlights and Request for Comments,'' as well as the background document, fact sheet and the guidance for small businesses that are located at the CFSAN Web site noted above. In addition, a promotional flyer and specific technical tuning instructions will be added to the CFSAN Web site in the near future.

Questions may be submitted in advance of the satellite downlink public meeting until the day before the meeting (see the **FOR FURTHER INFORMATION CONTACT** section of this document).

III. Transcripts

A transcript of the program and all questions/answers will be added to docket 96N–0417 and may be examined at the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday, as well as on the CFSAN Web site. You may request a transcript of the public meeting from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A–16, Rockville, MD 20857, approximately 3 weeks after the meeting at a cost of 10 cents per page. In addition, a videotape of the satellite downlink public meeting will be available for viewing after the broadcast at the FDA Dockets Management Branch.

IV. Comments

To submit written comments on the proposed rule that published in the **Federal Register** of March 13, 2003, please follow the instructions in the ''Request for Comment'' section of that document (68 FR 12157 at 12248), a copy of which may be found at CFSAN's Web site at: *http://www.cfsan.fda.gov/~dms/supplmnt.html*.

Dated: April 15, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–9660 Filed 4–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1915, and 1926

[Docket No. S–778–A]

RIN 1218–AB 81

Standards Improvement Project—Phase II

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Proposed rule; notice of hearing.

SUMMARY: On October 31, 2002, OSHA published a proposed rule entitled ''Standards Improvement Project—Phase II''. OSHA will convene an informal public hearing to receive testimony and documentary evidence relevant to the issues raised in the proposal. This action is in response to the interested parties who have requested the convening of a hearing.

DATES: *Informal public hearing.* The Agency will hold an informal public hearing beginning in Washington, DC, on July 8 to July 9, 2003. The hearing will commence at 10 a.m. on the first day, and at 9 a.m. on the second day and subsequent days if they prove necessary; however, the exact daily schedule is at the discretion of the presiding administrative law judge.

Notice of intention to appear to provide testimony at the informal public hearing. Interested parties who intend to present testimony at the informal public hearing must notify OSHA of their intention to do so no later than June 5, 2003.

Hearing testimony and documentary evidence. Interested parties who will be requesting more than 10 minutes to present their testimony, or who will be submitting documentary evidence at the hearing, must provide the Agency with copies of their full testimony and all

documentary evidence they plan to present by June 5, 2003. Parties who provided this material in response to the notice of proposed rulemaking do not have to resubmit their comments and documentary evidence submitted with their comments, but should refer to them in their notice of intention to appear.

ADDRESSES: *Informal public hearing.* The informal public hearing to be held in Washington, DC will be located in the Auditorium on the plaza level of the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC.

Notice of intention to appear at the hearing. Notices of intention to appear at the informal public hearing should be submitted in triplicate to the Docket Office, Docket No. S–778–A, Room N–2625, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Notices may also be faxed to the Docket Office at 202–693–1648 or submitted electronically at *http://ecomments.osha.gov.* OSHA Docket Office and Department of Labor hours of operation are 8:15 a.m. to 4:45 p.m.

Hearing testimony and documentary evidence. Interested parties who will be requesting more than 10 minutes to present their testimony, or who will be submitting documentary evidence at the informal public hearing must mail three copies of the testimony and the documentary evidence to the Docket Office at the above address. Testimony may also be faxed to the Docket Office at 202–693–1647. Additional information for submitting testimony and evidence is found under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION: For general information and press inquiries, contact Ms. Bonnie Friedman, Director, OSHA Office of Public Affairs, Room N–3647, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (telephone: (202) 693–1999). For technical inquiries, contact Mr. Robert Manware, Office of Physical Hazards, Room N–3718, (telephone (202) 693–2299; fax: (202) 693–1678) and for hearing information contact Ms. Veneta Chatmon, Office of Information (telephone 202–693–1999) at the above address. For additional copies of this **Federal Register** notice, contact the Office of Publications, Room N–3103, OSHA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 (telephone (202) 693–1888). Electronic copies of this **Federal Register** notice, as well as news releases and other relevant documents, are available at OSHA's Home page at *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION: In 1995, the Agency identified a number of provisions in its regulations and standards that were inconsistent, duplicative, outdated, or in need of being rewritten in plain language. In 1998, as part of the process of correcting such provisions, OSHA made several substantive revisions to its health and safety standards that reduced the regulatory obligations of employers while maintaining the safety and health protection afforded to employees (63 FR 33450, June 18, 1998). During and after this rulemaking, the Agency identified several other regulatory provisions in its safety and health standards involving notification of use, frequency of exposure monitoring and medical surveillance, and similar provisions that it believed could be modified to improve the efficiency of compliance and consistency among standards while maintaining health protection for employees. OSHA proposed to make substantive revisions to a number of the health standard provisions identified in this process on October 31, 2002 (67 FR 66494). The period for filing public comment on the proposal was to end on December 30, 2002. Interested parties requested an extension of the deadline for submitting comments based on the need for additional time to provide a thorough review and response to the substantive provisions proposed for revision in the notice. In response to these requests, OSHA extended the period for submitting comments until January 30, 2003 (*see* 68 FR 1023, January 8, 2003). In addition, a number of commenters (Exs. 3–2, 3–16) requested that an informal public hearing be convened on the issues raised in the proposal. OSHA has granted that request and has scheduled an informal public hearing commencing July 8, 2003.

Public Participation—Comments and Hearings

OSHA encourages members of the public to participate in this rulemaking by providing oral testimony and documentary evidence at the informal public hearing that the Agency will convene. In this regard, the Agency invites interested parties having knowledge or experience with respect to the issues raised in the proposal to participate in this process, and welcomes any pertinent data that will provide it with the best available evidence on which to develop the final regulatory requirements.

This section describes the procedures the public must use to schedule an opportunity to deliver oral testimony and provide documentary evidence at the informal public hearing. Notices of intention to appear, hearing testimony and documentary evidence will be available for inspection and copying at the OSHA Docket Office.

Pursuant to section 6(b)(3) of the Act, members of the public will have an opportunity at an informal public hearing to provide oral testimony concerning the issues raised in this proposal. The hearings will commence at 10 a.m. on the first day. At that time, the presiding administrative law judge (ALJ) will resolve any procedural matters relating to the proceeding. The hearings will reconvene on subsequent days at 9 a.m., if necessary.

The legislative history of section 6 of the OSHA Act, as well as OSHA's regulation governing public hearings (29 CFR 1911.15), establish the purpose and procedures of informal public hearings. Although the presiding officer of such hearing is an ALJ, and questions by interested parties is allowed on crucial issues, the proceeding is informal and legislative in purpose. Therefore, the hearing provides interested parties with an opportunity to make effective and expeditious oral presentations in the absence of procedural restraints or rigid procedures that could impede or protract the rulemaking process. In addition, the hearing is an informal administrative proceeding, rather than adjudicative one in which the technical rules of evidence would apply, because its primary purpose is to gather and clarify information. The regulations that govern public hearings, and the pre-hearing guidelines issued for this hearing, will ensure participants fairness and due process, and also will facilitate the development of a clear, accurate and complete record. Accordingly, application of these rules and guidelines will be such that questions of relevance, procedures, and participation generally will favor development of the record.

Conduct of the hearing will conform to the provisions of 29 CFR part 1911, ''Rules of Procedure for Promulgating, Modifying, or Revoking Occupational Safety and Health Standards.'' The regulation at 29 CFR 1911.4 ''Additional or Alternative Procedural Requirements,'' specifies that the Assistant Secretary may, on reasonable notice, issue alternative procedures to expedite proceedings or for other good causes. Although the ALJs who preside over these hearings make no decision or recommendation on the merits of OSHA's proposal, they do have the

responsibility and authority to ensure that the hearing progresses at a reasonable pace and in an orderly manner.

To ensure that interested parties receive a full and fair informal hearing as specified by 29 CFR part 1911, the ALJ has the authority and power to: Regulate the course of the proceedings; dispose of procedural requests, objections, and comparable matters; confine the presentations to matters pertinent to the issues raised; use appropriate means to regulate the conduct of the parties who are present at the hearing; question witnesses, and permit others to question witnesses; and limit the time for such questions. At the close of the hearing, the ALJ will establish a post-hearing comment period for parties who participated in the hearing. During the first part of this period, the participants may submit additional data and information to OSHA, while during the second part of this period, they may submit briefs, arguments, and summations.

Notice of Intention to Appear to Provide Testimony at the Informal Public Hearings. Interested parties who intend to provide oral testimony at the informal public hearings must file a notice of intention to appear by using the procedures specified above in the sections titled **DATES** and **ADDRESSES**. This notice must provide the: Name, address, and telephone number of each individual who will provide testimony; capacity (*e.g.*, name of the establishment/organization the individual is representing; the individual's occupational title and position) in which each individual will testify; approximate amount of time required for each individual's testimony; specific issues each individual will address, including a brief statement of the position that the individual will take with respect to each of these issues; and any documentary evidence the individual will present, including a brief summary of the evidence.

OSHA emphasizes that the hearings are open to the public, and that interested parties are welcome to attend. However, only a party who files a proper notice of intention to appear may ask questions and participate fully in the proceedings. While a party who did not file a notice of intention to appear may be allowed to testify at the hearing if time permits, this determination is at the discretion of the presiding ALJ.

Hearing Testimony and Documentary Evidence. Any party requesting more than 10 minutes to testify at the informal public hearing, or who intends to submit documentary evidence at the hearing, must, unless already having done so, provide the complete text of the testimony and the documentary evidence as specified above in the sections titled **DATE** and **ADDRESSES**. The Agency will review each submission and determine if the information it contains warrants the amount of time requested. If OSHA believes the requested time is excessive, it will allocate an appropriate amount of time to the presentation, and will notify the participant of this action, and the reasons for the action, prior to the hearing. The Agency may limit to 10 minutes the presentation of any participant who fails to comply substantially with these procedural requirements; in such instances, OSHA may request the participant to return for questions at a later time.

Please note that you may not attach materials such as studies or journal articles to testimony or documentary evidence faxes if they are more than 10 pages long. If you wish to include such materials, you must submit three copies to the OSHA Docket Office at the address listed above. When submitting such materials to the OSHA Docket Office, you must clearly identify your comments by name, date, Docket Number, and subject so that we can attach the materials to your faxed or mailed comments.

Certification of the Record and Final Determination After the Informal Public Hearing. Following the close of the hearing and post-hearing comment period, the presiding ALJ will certify the record to the Assistant Secretary of Labor for Occupational Safety and Health; the record will consist of all of the written comments, oral testimony, and documentary evidence received during the proceeding. However, the ALJ does not make or recommend any decisions as to the content of the final standard. Following certification of the record, OSHA will review the proposed provisions in light of all the evidence received as part of the record, and then will issue the final determinations based on the entire record.

Authority

John L Henshaw, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, directed the preparation of this document. It is issued under section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655), Secretary of Labor's Order No. 5–2002 (67 FR 65008) and 29 CFR part 1911.

Signed in Washington, DC on April 16, 2003.

John L. Henshaw,

Assistant Secretary of Labor.

[FR Doc. 03–9697 Filed 4–18–03; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 56 and 57

RIN: 1219–AA98 (Phase 6)

Seat Belts for Off-Road Work Machines and Wheeled Agricultural Tractors at Metal and Nonmetal Mines

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

ACTION: Proposed rule; request for comments.

SUMMARY: MSHA is issuing a proposed rule that would update the Agency's requirements for operator restraint systems (seat belts) for off-road work machines and wheeled agricultural tractors at metal and nonmetal mines. The existing standards require seat belts for off-road work machines to meet the requirements of the Society of Automotive Engineers' (SAE) consensus standard SAE J386–1985, and seat belts for wheeled agricultural tractors to meet the requirements of SAE J1194–1983. Since MSHA promulgated these standards, however, the SAE has revised them to reflect technological advances in seat belt design and materials. Seat belts meeting the specifications of earlier versions of these SAE standards are no longer routinely installed by manufacturers. The proposed rule would permit seat belts to meet the requirements of the more recent revisions of the SAE J386 and SAE J1194 standards.

DATES: Submit comments by May 21, 2003.

The incorporation by reference of certain publications in this rule is approved by the Director of the Federal Register as of the effective date of the final rule.

ADDRESSES: Clearly identify comments as such and submit them either electronically to ; by facsimile to 202–693–9441; or by regular mail or hand delivery to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2352, Arlington, Virginia 22209–3939. Comments are posted for public viewing at *http://www.msha.gov/currentcomments.*

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Director; Office of

Standards, Regulations, and Variances, MSHA; Phone: 202–693–9442; FAX: 202–693–9441; E-mail: *nichols-marvin@msha.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Copies of the SAE publications incorporated by reference may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

This proposed rule would only update §§ 56/57.14130, paragraph (h), *Seat belts construction.* MSHA is not updating §§ 56/57.14130, paragraph (b)(2), which also incorporates by reference SAE J1194–1983, because paragraph (b)(2) addresses the construction of roll-over protective structures (ROPS), not seat belts. The construction of ROPS is beyond the scope of this rulemaking.

A. Proposed Rule, Direct Final Rule, and Significant Adverse Comments

Elsewhere in this issue of the **Federal Register**, we are publishing a direct final rule that is substantively identical to this proposed rule. We are publishing this companion proposed rule under § 553 of the Administrative Procedure Act to speed notice and comment rulemaking should we withdraw the direct final rule.

MSHA has determined that this rulemaking is suitable for a direct final rule because we do not expect that updating the metal and nonmetal seat belt standards, to include the revised SAE consensus standards, will elicit any significant adverse comments. A significant adverse comment is one that explains (1) why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach, or (2) why the direct final rule will be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of the direct final rule, we would consider whether the comment warrants a substantive response in a notice and comment process.

All interested parties should comment by May 21, 2003, because we will not initiate an additional comment period.

B. Regulatory History

Existing standards §§ 56/57.14130 derived from standards promulgated by MSHA's predecessor, the Mining Enforcement and Safety Administration (MESA) in 1977. Like these existing standards, the standards under MESA required seat belts to meet specific SAE requirements that were incorporated by reference. MSHA's requirements for seat belts at metal and nonmetal mines remained substantively unchanged until 1988.

In 1984, MSHA issued a proposed rule (49 FR 49201) revising the loading, hauling, and dumping standards at metal and nonmetal mines. MSHA had considered removing the incorporation by reference provisions relating to seat belts and accompanying roll-over protective structures (ROPS) on equipment and replace them with performance criteria (49 FR 49201 and 49203). At that time, however, commenters urged MSHA to retain the incorporation by reference and update it.

In 1988, MSHA promulgated final §§ 56/57.14130 for ROPS and seat belts for certain off-road work machines. The final rule (53 FR 32496 and 32524) updated the references to SAE J386–1985 and SAE J1194–1983 to reflect the most current revision. The final rule also added a provision, §§ 56/57.14131, requiring that seat belts on haulage trucks meet the same SAE requirements as MSHA required for seat belts on off-road work machines.

II. Discussion of Seat Belt Requirements

Existing standards §§ 56/57.14130(h) and 56/57.14131(c) require that seat belts for off-road work machines meet the requirements set forth in the Society of Automotive Engineers' (SAE) consensus standard J386–1985. Existing standards §§ 56/57.14130(h) also require that seat belts for agricultural tractors meet SAE consensus standard J1194–1983. These SAE consensus standards are incorporated by reference. Paragraphs §§ 56/57.14130(j) and 56/57.14131(d) contain the required information about the Federal Register's approval of the incorporation by reference and the addresses for examining or obtaining copies.

Compliance Difficulties. MSHA enforcement of its seat belt standards relies on the labeling of seat belts in accordance with the SAE standards. For example, SAE J386–1985 states

> 4.1.5 Marking (Labeling) Each seat belt assembly and/or each section of belt assembly shall be permanently and legibly labeled with year of manufacture, model or style number, and name or trademark of manufacturer or importer, and shall state compliance with SAE J386 JUN85, Part II.

Since 1988, however, SAE has updated SAE J386 twice and SAE J1194 three times, each time reaffirming the previous version or incorporating advances in safety technology. Seat belts and assemblies currently manufactured for off-road work machines and haulage trucks comply with SAE J386–1997 and those currently manufactured for tractors comply with SAE J1194–1999. Seat belts meeting the superceded SAE J386–1985 or SAE J1194–1983 standards are no longer available, except through special orders at considerable cost. Consequently, because manufacturers no longer construct or label seat belts in accordance with the outdated SAE standards, mine operators have difficulty complying with MSHA's existing standards.

Equivalent Protection. MSHA bases its requirements for roll-over protective structures (ROPS) and operator restraint systems (seat belts) on technical documents developed by the SAE, a nationally and internationally recognized consensus standards setting organization. ROPS and seat belts provide a predictable level of performance when their construction meets the specifications of SAE's consensus standards. For example, SAE's testing of seat belt assemblies verifies that the strength and construction under the 1993 and 1997 revisions of SAE J386 meet the minimum requirements set forth by the society. Engineers and safety professionals agree that SAE J386 performance and test requirements provide a safe operator restraint system for off-road work machines commonly used in mining. This proposed rule would expand compliance alternatives to accommodate advances in seat belt technology without reducing protection for miners.

Expanded Compliance Alternatives. Newly manufactured replacement seat belts for off-road work machines and wheeled agricultural tractors, as well as those installed on new off-road machines or tractors, meet the specifications in the most recent SAE consensus standards. The immediate availability of replacement seat belts ''off-the-shelf,'' as opposed to those requiring a special order, speeds replacement, minimizing equipment down time and the enticement to use off-road work machines without compliant seat belts. Also, allowing the use of seat belts meeting other revisions of the SAE standards, rather than only the most recent, would allow mine operators to use the supply of

replacement seat belts they already have on hand.

Enhanced Safety. The proposed rule would improve safety by updating MSHA's standards to allow the use of advances in seat belt technology addressed in the newer industry consensus standards. Many safeguards and improved engineering are integral design features on new products. For example, the more recent revisions of the SAE consensus standards address developments, such as tether straps and three and four point systems, which are not included in the 1983 or 1985 revisions. Up-to-date standards are consistent with the goals of the Federal Mine Safety and Health Act of 1977, Executive Order 12866, and the Regulatory Flexibility Act.

III. The Regulatory Flexibility Act, Executive Order 12866, and the Small Business Regulatory Enforcement Fairness Act

In accordance with Executive Order (E.O.) 12866, we have analyzed the estimated costs and benefits associated with this proposed rule, and have included our Preliminary Regulatory Economic Analysis (PREA) in this preamble. This proposed rule would not be an economically significant regulatory action under § 3(f)(1) of E.O. 12866.

In accordance with § 605 of the Regulatory Flexibility Act (RFA), we certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, we must include the factual basis for this certification in the proposed rule. Accordingly, we are publishing the factual basis for our preliminary regulatory flexibility certification statement in the **Federal Register**, as part of this preamble, and are providing a copy to the Small Business Administration (SBA), Office of Advocacy. We also will mail a copy of the proposed rule, including the preamble and certification statement, to metal and nonmetal mine operators and miners' representatives and post it on our Internet Home Page at *www.msha.gov*.

Factual basis for certification. This proposed rule would provide at least the same level of protection for miners at a lower cost for mine operators. It would affect all 11,641 metal and nonmetal mines, 85.3% (9,928) of which employ fewer than 20 miners and 99.8% (11,618) of which employ 500 or fewer miners (PEIR, CY 2001). It would not include any additional costs and would have no adverse economic impact on the metal and nonmetal mining industry. To the contrary, cost savings would be associated with not having to special order discontinued, older seat belts and not having to replace those seat belts already installed. The proposed rule also would eliminate the burden of preparing and responding to petitions for modification. The advantage of being able to obtain seat belts ''off-the-shelf'' would allow mine operators to replace damaged seat belts more quickly, thus reducing machinery and equipment down time which could result in lost production.

IV. Other Regulatory Considerations

A. Paperwork Reduction Act

This proposed rule would not contain any information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Although the SAE requires seat belts to have a label indicating compliance with a specific SAE consensus standard, these labels are prepared and attached by the seat belt manufacturer. Both mine operators and MSHA use these labels to determine whether the seat belts comply with the appropriate SAE consensus standard.

B. Unfunded Mandates Reform Act of 1995

This proposed rule would affect about 220 small metal and nonmetal mines operated by governmental jurisdictions mostly to provide aggregates for the construction and repair of highways and roads. We have determined, for purposes of § 202 of the Unfunded Mandates Reform Act of 1995, that this proposed rule would not include any Federal mandate that may result in increased expenditures by state, local, or tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million. We also determined, for purposes of § 203, that this proposed rule would not significantly or uniquely affect these entities.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This proposed rule would not be subject to Executive Order 12630 because it would not involve implementation of a policy with ''takings'' implications.

D. Executive Order 12988: Civil Justice Reform

In accordance with Executive Order 12988, we have determined that this proposed rule would not unduly burden the Federal court system. We wrote the proposed rule to provide a clear legal standard for affected conduct and have reviewed it to eliminate drafting errors and ambiguities.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the environmental health and safety effects of this proposed rule and have determined that it would have no adverse effects on children.

F. Executive Order 13132: Federalism

In accordance with Executive Order 13132, we have reviewed this proposed rule and have determined that it would not have ''federalism'' implications.

G. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we certify that this proposed rule would not impose substantial direct compliance costs on Indian tribal governments.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, we have reviewed this proposed rule and have determined that it would not have a significant adverse effect on the supply, distribution, or use of energy, and no reasonable alternatives to this action would be necessary.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the proposed rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. As discussed previously in this preamble, MSHA has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects

30 CFR Part 56

Incorporation by reference, Mine safety and health, Surface mining.

30 CFR Part 57

Incorporation by reference, Mine safety and health, Underground mining.

Dated: April 14, 2003.

Dave D. Lauriski,

Assistant Secretary of Labor for Mine Safety and Health.

For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, MSHA is proposing to amend chapter I, parts 56 and 57 of title 30 of the Code of Federal Regulations as follows:

PART 56—[AMENDED]

1. The authority citation for part 56 continues to read as follows:

Authority: 30 U.S.C. 811.

2. Section 56.14130 is amended by revising paragraphs (h) and (j) to read as follows:

§ 56.14130 Roll-over protective structures (ROPS) and seat belts.

* * * * *

(h) *Seat belts construction.* Seat belts required under this section shall meet the requirement of SAE J386, ''Operator Restraint System for Off-Road Work Machines'' (1985, 1993, or 1997), or SAE J1194, ''Roll-Over Protective Structures (ROPS) for Wheeled Agricultural Tractors'' (1983, 1989, 1994, or 1999), as applicable, which are incorporated by reference.

* * * * *

(j) *Publications.* The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

3. Section 56.14131 as amended by revising paragraphs (c) and (d) to read as follows:

§ 56.14131 Seat belts for haulage trucks.

* * * * *

(c) Seat belts required under this section shall meet the requirements of SAE J386, ''Operator Restraint System for Off-Road Work Machines'' (1985, 1993, or 1997), which are incorporated by reference.

(d) The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

PART 57—[AMENDED]

4. The authority citation for part 57 continues to read as follows:

Authority: 30 U.S.C. 811.

5. Section 57.14130 is amended by revising paragraphs (h) and (j) to read as follows:

§ 57.14130 Roll-over protective structures (ROPS) and seat belts for surface equipment.

* * * * *

(h) *Seat belts construction.* Seat belts required under this section shall meet the requirement of SAE J386, ''Operator Restraint System for Off-Road Work Machines'' (1985, 1993, or 1997), or SAE J1194, ''Roll-Over Protective Structure (ROPS) for Wheeled Agricultural Tractors'' (1983, 1989, 1994, or 1999), as applicable, which are incorporated by reference.

* * * * *

(j) *Publications.* The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

6. Section 57.14131 is amended by revising paragraphs (c) and (d) to read as follows:

§ 57.14131 Seat belts for surface haulage trucks.

* * * * *

(c) Seat belts required under this section shall meet the requirements of SAE J386, ''Operator Restraint System for Off-Road Work Machines'' (1985, 1993, or 1997), which are incorporated by reference.

(d) The incorporation by reference of these publications is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies of these publications may be examined at any Metal and Nonmetal Mine Safety and Health District Office; at MSHA's Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209–3939; or at the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC. Copies may be purchased from the Society of Automotive Engineers, 400 Commonwealth Drive, Warrendale, Pennsylvania 15096–0001.

[FR Doc. 03–9658 Filed 4–18–03; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Parts 71 and 75

RIN 1219–AA98 (Phase 9)

Standards for Sanitary Toilets in Coal Mines

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

ACTION: Proposed rule; request for comments.

SUMMARY: MSHA is proposing to remove an application and approval requirement from existing mandatory standards. Currently, MSHA must approve sanitary toilets for use in underground coal mines, and MSHA and the National Institute for Occupational Safety and Health (NIOSH) must jointly approve sanitary toilets for use in surface coal mines. MSHA and NIOSH base their approval on criteria drawn from the American National Standard Institute's (ANSI's) *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements.* MSHA is proposing to amend its standards to state which sanitary toilets meet the standard in order to eliminate the need for an application for approval and its associated paperwork burden. This action would also directly inform manufacturers, mine operators, miners, and miners' representatives about which sanitary toilets meet the standard. Removing the application requirements would have no substantive effect on the sanitation standards.

DATES: Submit comments by May 21, 2003.

ADDRESSES: Clearly identify comments as such and submit them either electronically to *comments@msha.gov;* by facsimile to (202) 693–9441; or by regular mail or hand delivery to MSHA, Office of Standards, Regulations, and Variances, 1100 Wilson Blvd., Room 2313, Arlington, Virginia 22209–3939. Comments are posted for public viewing at *http://www.msha.gov/currentcomments.htm.*

FOR FURTHER INFORMATION CONTACT: Marvin W. Nichols, Director; Office of Standards, Regulations, and Variances, MSHA; Phone: 202–693–9442; FAX: 202–693–9441; E-mail: *nichols-marvin@msha.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction.

The Office of Management and Budget's (OMB's) current approval for §§ 71.500 and 75.1712–6 under control number 1219–0101 expires on November 30, 2003. OMB approval was contingent on MSHA initiating rulemaking ''to update and simplify this standard with the goal of eliminating unnecessary requirements and reducing the unnecessary burdens.'' In response to OMB concerns, MSHA developed this proposed rule to eliminate the need for applications for approval of sanitary toilets and their associated paperwork burden. This proposed rule would not address any other aspect of MSHA's standards for sanitary facilities at coal mines. Sanitary toilet facilities for surface work areas of underground mines would remain subject to the provisions of 30 CFR 75.1712–3, which is unchanged.

Proposed Rule, Direct Final Rule, and Significant Adverse Comments

Elsewhere in this issue of the **Federal Register**, we are publishing a direct final rule which is substantively identical to this companion proposed rule. MSHA has determined that this rulemaking is suitable for a direct final rule because we do not expect to receive any significant adverse comments. A significant adverse comment is one that explains (1) why the direct final rule is inappropriate, including challenges to the rule's underlying premise or approach, or (2) why the direct final rule would be ineffective or unacceptable without a change. In determining whether a comment necessitates withdrawal of the direct final rule, MSHA would consider whether it warrants a substantive response in a notice and comment process.

We are publishing this companion proposed rule under section 553 of the Administrative Procedure Act to speed notice and comment rulemaking should we withdraw the direct final rule. All interested parties should comment by May 21, 2003 because we will not initiate an additional comment period.

II. Background Discussion of Existing Standards

A. Regulatory History

MSHA originally promulgated sanitation standards under the Federal Coal Mine Health and Safety Act of 1969. The Mining Enforcement and Safety Administration (MESA), MSHA's predecessor, promulgated 30 CFR 75.1712–6 on November 20, 1970 (35 FR 17890) and 30 CFR 71.500 on March 28, 1972 (37 FR 6368). No substantive changes have been made to either provision since that time.

Under existing standards, MSHA approves sanitary toilets for installation and use on an industry-wide basis, not on a mine-by-mine basis. MSHA issues three types of approvals: for surface work sites only, for underground work sites only, or for both surface and underground work sites. Once granted, the approval does not expire. Although some of the manufacturers and distributors of approved sanitary toilets are no longer in business, MSHA accepts these approved sanitary toilets as long as they are properly maintained.

B. Existing Application for Approval Process

The existing standards' requirements for an application for approval of a sanitary toilet can pose an unnecessary burden on manufacturers and mine operators. To effectively evaluate a sanitary toilet for use at a coal mine, MSHA requires that the application for approval contain—

- Information about the unit and its manufacturer;
- Instructions for operation and maintenance;
- Technical or performance test data; and
- Other information that may help in evaluating the unit's practicality for use in coal mining, such as information about the appropriateness and durability of the sanitary toilet for use underground.

C. MSHA and MSHA/NIOSH Approval Criteria

When reviewing the application for approval, MSHA and NIOSH review and evaluate the sanitary features of each toilet for the use intended. Currently, MSHA and NIOSH use portions of the American National Standard Institute's (ANSI's) *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements*, ANSI Z4.3–1987 (Reaffirmed 1995), as the criteria for evaluating these sanitary features. At a minimum, MSHA and NIOSH use the definitions for the various types of toilets and components of the toilet facility in Section 2; the general requirements for auxiliary features in Sections 3.7, 3.8, and 3.9; and the specific design criteria in Section 7.

Exceptions. Although a privy is listed in ANSI Z4.3–1987 (Reaffirmed 1995), MSHA does not approve the use of a privy at any coal mine because sewage could seep through the earth walls and contaminate ground water, earth walls could fail under the harsh conditions at a coal mine, and rain and run-off could flood the privy causing it to overflow and contaminate the mine. MSHA does not approve combustion or incinerating toilets underground because they can create a fire hazard by introducing an ignition source. MSHA does not require a toilet paper holder on unenclosed sanitary toilets underground because it is impractical.

D. Types of Approved Sanitary Toilets

The following table contains excerpts from ANSI Z4.3–1987 (Reaffirmed 1995) for those types of sanitary toilets that are approved for use in coal mines. MSHA will consider any toilet facility that is one of the types of toilets listed in the Agency's revised standards and meets these same criteria, to be in compliance.

Definitions (ANSI Z4.3 Section 2)	Types of toilet facilities (ANSI Z4.3 Section 7)
Vault Toilet	
2.2.2—A vault toilet facility is one wherein the waste is deposited without flushing in a permanently installed, watertight, below-ground container.	7.1.1. The vault-toilet tank shall be durable and corrosion-resistant and shall provide a minimum capacity of 378 L (100 gal) per seat. 7.1.2. Where a caustic chemical issued, the charge per seat shall be a minimum of 11.3 kg (25 lbs.) of caustic dissolved in 37.5 L (10 gal) of water. 7.1.3. The chemical shall be drained and the receptacle recharged every 6 months when in continuous use, or at least at the beginning of each season of operation when in intermittent use, or when three-fourths full, whichever occurs first. 7.1.4. Tanks shall be vented to the outside with a minimum nominal venting area of 45 cm2 (7 in2). 7.1.5. The tank shall be equipped with a manhole external to the structure for cleaning and for removal of caustic chemicals. The manhole shall be covered so as to prevent escape of gases and odors.
Sealed-Bag Toilet	
2.2.3—A sealed-bag toilet facility is one wherein the waste of each user is deposited, without flushing, into a bag, generally plastic, which is then sealed for later disposal. The structure housing a sealed-bag-toilet facility may be permanent or portable.	7.2.1. All materials and fittings shall be corrosion resistant. 7.2.2. The bag shall be made of material of sufficient strength so as not to leak and, once sealed, so as to retain the waste until such time as the bag is removed from the toilet for disposal.
Combustion or Incinerating Toilet	
2.3—A combustion- or incinerating-toilet facility is one wherein the waste is deposited, with or without flushing, into a combustion chamber, where it is incinerated. The structure housing a combustion- or incinerating-toilet facility may be permanent or portable.	7.3.1. All external surfaces, including bowl and hopper, shall be easy to clean. 7.3.2. The residue of combustion or incineration shall be sterile and inert. 7.3.3. The flue effluents shall be free of viable bacteria. 7.3.4. The combustion system and all fuel and electrical parts shall be safe and in compliance with applicable gas and electrical codes of local authorities. Where such codes do not exist, the installation shall comply with American National Standard National Electrical Code, ANSI/NFPA 70–1987, or with American National Standard for Gas-Fired Toilets, ANSI Z21.61–1983, and American National Standard National Fuel Gas Code, ANSI Z223.1–1984 and ANSI Z223.1a–1987.
Chemical Toilet and Biological Toilet	
2.2.1—A chemical-toilet facility is a nonflush-toilet facility wherein the waste is deposited directly into a container containing a solution of water and chemical. It may be housed in a permanent or portable structure.. 2.4—A biological-toilet facility is one wherein the waste is deposited, with or without flushing, into a waste container integral to the toilet facility, where it is treated by means of biological agents or aeration.	7.4.1. Waste containers shall be fabricated from nonabsorbent, watertight materials. 7.4.2. Portable chemical and biological toilets and urinals that are free-standing and not installed in a toilet room do not require a ventilation system. 7.4.3. Chemicals or biological agents, if used in the waste container, shall be in accordance with applicable federal, state, and local provisions.
Nonwater-Flush Toilet	
2.1.2—A nonwater-flush-toilet facility is one wherein the waste is flushed from the bowl and the bowl cleansed by a fluid other than water, with the fluid deposited in a container or receptacle, or treated and recirculated as in 2.1.1; such facilities include, but are not limited to, oil-flush-toilet facilities.	7.5.1. All materials such as bowl, piping, and fittings that are in contact with waste and chemicals shall be nonabsorbent and corrosion-resistant. 7.5.2. Waste passages shall have smooth surfaces and shall be free of obstructions, recesses, or chambers that would permit fouling. 7.5.3. Flushing shall be accomplished by controls operable without special knowledge. Upon flushing, fluid shall enter the bowl and pass through with a vigorous flow sufficient to carry the waste from the bowl into the waste container. 7.5.4. Chemicals, if used in the waste container, shall be in accordance with applicable local, state, and federal provisions.

Definitions (ANSI Z4.3 Section 2)	Types of toilet facilities (ANSI Z4.3 Section 7)
Water-Flush Toilet	
2.1.1—A water-flush-toilet facility is one wherein the waste is carried from the bowl and the bowl cleansed by water, and the combined water and waste is deposited into a container or receptacle, or recirculated by a closed system for flushing purposes; such facilities include, but are not limited to, vacuum-toilet facilities.	7.6.1. All materials such as bowl, piping, and fittings that are in contact with waste and chemicals shall be nonabsorbent and corrosion-resistant. 7.6.2. Waste passages shall have smooth surfaces and shall be free of obstructions, recesses, or chambers that would permit fouling. 7.6.3. Flushing shall be accomplished by controls operable without special knowledge. 7.6.4. Chemicals, if used, shall be in accordance with applicable local, state, and federal provisions.

Source: American National Standard Institute (ANSI), *American National Standard for Sanitation—Nonsewered Waste-Disposal Systems—Minimum Requirements,* (ANSI Z4.3–1987 (Reaffirmed 1995).

III. Section-by-Section Discussion

The following section-by-section discussion explains the proposed rule's revisions to the existing standards. The proposed rule would provide the same level of protection for miners as the existing standards because it would guarantee that sanitary toilets meet the same requirements as those which were approved through the existing application process. The proposed rule would have no substantive effect on the sanitation standards at coal mines.

A. 30 CFR 71.500 for Surface Coal Mines

Existing § 71.500 requires all surface coal mine operators to provide at least one approved sanitary toilet at a location convenient to each surface work site and one additional approved sanitary toilet for each 10 miners working at a location. MSHA and NIOSH jointly approve sanitary toilets for use at surface mines.

The proposed rule would eliminate the application for approval requirement and its associated paperwork burden, and provide notice of which types of sanitary toilets may be used by listing them directly in the standard. The proposed rule also would require sanitary toilets to have a toilet paper holder with an adequate supply of toilet paper and a toilet seat with a hinged lid, as is required in Section 3 of ANSI Z4.3–1987 (Reaffirmed 1995); and would prohibit the use of privies.

NIOSH has reviewed this regulatory action and concurs that the application for approval requirements can be removed without reducing protection for miners. NIOSH also agrees that the regulatory action would not change the criteria for the sanitary toilets. MSHA has incorporated NIOSH's comments in this regulatory action.

B. 30 CFR 75.1712–6 for Underground Coal Mines

Existing § 75.1712–6 requires all underground coal mine operators to provide and maintain one approved sanitary toilet in a dry location under protected roof within 500 feet of each working place where miners regularly work. Under the existing standard, MSHA must approve sanitary toilets for use at underground locations.

The proposed rule would eliminate the application requirement and its associated paperwork burden, and provide notice of which types of sanitary toilets may be used by listing them directly in the standard. The proposed rule also would require sanitary toilets to have a toilet paper holder with an adequate supply of toilet paper and a toilet seat with a hinged lid, as is required in Section 3 of ANSI Z4.3–1987 (Reaffirmed 1995); would prohibit privies and combustion or incinerating toilets underground; and would remove the obsolete December 30, 1970, effective date.

IV. The Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, and Executive Order 12866

In accordance with Executive Order (E.O.) 12866, MSHA has analyzed the estimated costs and benefits associated with this proposed rule, and has included its Preliminary Regulatory Economic Analysis (PREA) in this preamble. This proposed rule would not include any additional costs for the mining industry and would eliminate the costs associated with filing an application for approval. This proposed rule would not be an economically significant regulatory action under § 3(f)(1) of E.O. 12866.

In accordance with § 605 of the Regulatory Flexibility Act (RFA), MSHA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. Under the Small Business Regulatory Enforcement Fairness Act (SBREFA) amendments to the RFA, the Agency must include the factual basis for this certification in the proposed rule. Accordingly, the Agency is publishing the factual basis for its regulatory flexibility certification statement in the **Federal Register**, as part of this preamble, and is providing a copy to the Small Business Administration (SBA), Office of Advocacy. MSHA also will mail a copy of the proposed rule, including the preamble and certification statement, to coal mine operators and miners' representatives and post it on the Agency's Internet Home Page at *www.msha.gov.*

Factual Basis for Certification.

MSHA is issuing a proposed rule amending 30 CFR parts 71 and 75, concerning applications for approval of sanitary toilets. The Agency is amending its regulations to state which sanitary toilets meet the standard in order to eliminate the need for underground and surface coal mines to file an application for approval and to avoid the associated cost and paperwork burden.

Manufacturers are the primary applicants for MSHA or MSHA/NIOSH approval of sanitary toilets. In the last four years, seven manufacturers of portable toilets filed applications to request approval of sanitary toilets. During this same period, only one mine operator filed an application to request approval of sanitary toilets. MSHA expects that the number and distribution of applications over the last four years is representative of future applications in the absence of this proposed rule. MSHA therefore estimates that, on average, in the absence of the proposed rule, portable toilet manufacturers would file 1.75 applications each year, and mine operators would file 0.25 applications each year.

Traditionally, MSHA has considered a small mine to be one with fewer than 20 employees. Based on MSHA's definition, the mine operator is considered large because it employs 20

or more workers. The Small Business Administration (SBA) definition for a small business in the mining industry is one with 500 or fewer employees. The mine operator that filed the application is considered a small business by SBA's definition in that it employs fewer than 500 workers. Based on SBA's definition, manufacturers of portable toilets (plastics), NAICS Code 326191 (SIC Code 3088), are defined as small if they have fewer than 500 employees. All of the portable toilet manufacturers are small businesses, according to SBA, because each employs fewer than 500 workers.[1]

Compliance Costs

Cost savings from this proposed rule would accrue to sanitary toilet manufacturers and mine operators because they would no longer have to file an application for approval of sanitary toilets. Cost savings from this rule are estimated at $407 annually. The cost savings are based upon the elimination of the filing of an average of 1.75 applications per year by manufacturers and 0.25 applications per year by mine operators. For the manufacturers, cost savings would be $296 annually. For the mine operator, cost savings would be $111 annually.

The annual cost savings of $296 for manufacturers is derived in the following manner. On average, a first-line supervisor at a toilet manufacturing facility, earning $20.82 per hour,[2] takes 8 hours to prepare an application (1.75 applications × 8 hours × $20.82 per hour = $291.48). In addition, a clerical worker, earning $12.66 per hour,[3] takes 0.1 hour to copy and mail an application (1.75 applications × 0.1 hour × $12.66 per hour = $2.22). Furthermore, MSHA estimates that, on average, each application is two pages long, photocopying costs are $0.15 per page, and postage is $1 [1.75 applications x ((2 pages × $0.15 per page) × $1) = $ 2.28].

The annual cost savings of $111 for the mine operator is derived in the following manner. On average, a mine supervisor, earning $54.92 per hour, takes 8 hours to prepare an application (0.25 application × 8 hours × $54.92 per hour = $109.84). In addition, a clerical worker, earning $19.58 per hour, takes 0.1 hour to copy and mail an application (0.25 application × $0.1 hour × $19.58 per hour = $0.49). Furthermore, MSHA estimates that, on average, each application is two pages long, photocopying costs are $0.15 per page, and postage is $1 [0.25 application × ((2 pages × $0.15 per page) + $1) = $0.33].

This proposed rule would eliminate the application process and provide simple compliance information directly to the public, thus eliminating the annual cost burden.

V. Paperwork Reduction Act

This proposed rule would not contain any additional information collections subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. Consequently, the information collection currently approved by OMB under control number 1219–0101 would no longer be necessary and would be withdrawn.

This proposed rule would result in 16 annual burden hour savings and associated annual burden cost savings of $404 related to elimination of 2 applications annually for sanitary toilets. Of this total, for the 1.75 portable toilet manufacturers, there would be 14 burden hours savings annually and associated annual burden costs savings of $294. For the 0.25 mine operators, there would be 2 burden hours savings annually and associated annual burden cost savings of $110.

The annual reduction of 14 burden hours and the $294 annual burden costs savings for the 1.75 portable sanitary toilet manufacturers are derived in the following manner. On average, a first-line supervisor at a toilet manufacturing facility, takes 8 hours to prepare an application (1.75 applications × 8 hours = 14 hours). In addition, a clerical worker takes 0.1 hour (or 6 minutes) to copy and mail an application (1.75 applications × 0.1 hour = 0.18 hours). The hourly wage rate for a first-line supervisor at a portable toilet manufacturing facility is $20.82 ($20.82 × 14 burden hours = $291.48). The hourly wage rate for a clerical worker (billing and posting clerks) is $12.66 ($12.66 × 0.18 burden hours = $2.28).

The annual reduction of 2 burden hours and the $110 annual burden costs savings for the 0.25 mines are derived in the following manner. On average, a mine supervisor takes 8 hours to prepare an application (0.25 applications × 8 hours = 2 hours). In addition, a clerical worker takes 0.1 hour (or 6 minutes) to copy and mail an application (0.25 applications × 0.1 hour = 0.03 hour). The hourly wage rate for a mine supervisor is $54.92 ($54.92 × 2 hours = $109.84). The hourly wage rate for a clerical worker is $19.58 ($19.58 × 0.03 hours = $0.58).

This proposed rule would remove this burden by eliminating the application process and providing information directly to the public.

VI. Other Regulatory Considerations

A. The National Environmental Policy Act of 1969

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) requires each Federal agency to consider the environmental effects of its actions. This proposed rule would have no adverse environmental impact because it has no substantive effect on the existing standards.

B. Unfunded Mandates Reform Act of 1995

We have determined, for purposes of § 202 of the Unfunded Mandates Reform Act of 1995, that this proposed rule would not include any Federal mandate that may result in increased expenditures by state, local, or tribal governments in the aggregate of more than $100 million, or increased expenditures by the private sector of more than $100 million. We also determined, for purposes of § 203, that this proposed rule would not significantly or uniquely affect these entities.

C. Executive Order 12630: Government Actions and Interference With Constitutionally Protected Property Rights

This proposed rule would not be subject to Executive Order 12630 because it would not involve implementation of a policy with ''takings'' implications.

D. Executive Order 12988: Civil Justice Reform

In accordance with Executive Order 12988, we have determined that this proposed rule would not unduly burden the Federal court system. We wrote the proposed rule to provide a clear legal standard for affected conduct and have reviewed it to eliminate drafting errors and ambiguities.

E. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

In accordance with Executive Order 13045, we have evaluated the environmental health and safety effects of this proposed rule and have

[1] Small Business Administration, Small Business Size Standards Matched to North American Industry Classification System (NAICS), Effective July 1, 2002. (*http://www.sba.gov/size/sizetable.html*).

[2] U.S. Department of Labor, Bureau of Labor Statistics, Career Guide to Industries—Chemicals Manufacturing, Except Drugs. (*http://www.bls.gov/oco/cgs/cgs008.htm*).

[3] U.S. Department of Labor, Bureau of Labor Statistics, Occupational Employment Statistics—2001 National Occupational Employment and Wage Estimates. (*http://www.bls.gov/oes/2001/oes433021.htm*).

determined that it would have no adverse effects on children.

F. Executive Order 13132: Federalism

In accordance with Executive Order 13132, we have reviewed this proposed rule and have determined that it would not have ''federalism'' implications.

G. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

In accordance with Executive Order 13175, we certify that this proposed rule would not impose substantial direct compliance costs on Indian tribal governments.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

In accordance with Executive Order 13211, we have reviewed this proposed rule and have determined that it would have no effect on the production or price of coal. Consequently, it would have no significant adverse effect on the supply, distribution, or use of energy, and no reasonable alternatives to this action would be necessary.

I. Executive Order 13272: Proper Consideration of Small Entities in Agency Rulemaking

In accordance with Executive Order 13272, MSHA has thoroughly reviewed the proposed rule to assess and take appropriate account of its potential impact on small businesses, small governmental jurisdictions, and small organizations. As discussed previously in this preamble, MSHA has determined that the proposed rule would not have a significant economic impact on a substantial number of small entities.

List of Subjects

30 CFR Part 71

Coal mines, Mine safety and health, Surface mining.

30 CFR Part 75

Coal mines, Mine safety and health, Underground mining.

Dated: April 15, 2003.

John R. Correll,

Deputy Assistant Secretary for Mine Safety and Health.

For the reasons set out in the preamble, and under the authority of the Federal Mine Safety and Health Act of 1977, MSHA is amending chapter I, parts 71 and 75, of title 30 of the Code of Federal Regulations as follows:

PART 71—[AMENDED]

1. The authority citation for part 71 continues to read as follows:

Authority: 30 U.S.C. 811, 951, 957.

2. Section 71.500 is revised to read as follows:

§ 71.500 Sanitary toilet facilities at surface work sites; installation requirements.

(a) Each operator of a surface coal mine shall provide and install at least one sanitary toilet in a location convenient to each surface work site. A single sanitary toilet may serve two or more surface work sites in the same surface mine where the sanitary toilet is convenient to each such work site.

(b) Where 10 or more miners use such toilet facilities, sufficient toilets shall be furnished to provide approximately one sanitary toilet for each 10 miners.

(c) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue.

(d) Only flush or nonflush chemical or biological toilets, combustion or incinerating toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies are prohibited.

Note to § 71.500: Sanitary toilet facilities for surface work areas of underground mines are subject to the provisions of § 75.1712–3 of this chapter.)

PART 75—[AMENDED]

3. The authority citation for part 75 continues to read as follows:

Authority: 30 U.S.C. 811.

4. Section 75.1712–6 is revised to read as follows:

§ 75.1712–6 Underground sanitary facilities; installation and maintenance.

(a) Except as provided in § 75.1712–7, each operator of an underground coal mine shall provide and maintain one sanitary toilet in a dry location under protected roof, within 500 feet of each working place in the mine where miners are regularly employed during the mining cycle. A single sanitary toilet may serve two or more working places in the same mine, if it is located within 500 feet of each such working place.

(b) Sanitary toilets shall have an attached toilet seat with a hinged lid and a toilet paper holder together with an adequate supply of toilet tissue, except that a toilet paper holder is not required for an unenclosed toilet facility.

(c) Only flush or nonflush chemical or biological toilets, sealed bag toilets, and vault toilets meet the requirements of this section. Privies and combustion or incinerating toilets are prohibited underground.

[FR Doc. 03–9656 Filed 4–18–03; 8:45 am]

BILLING CODE 4510–43–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 260

[Docket No. 96–5 CARP DSTRA]

Determination of Reasonable Rates and Terms for the Digital Performance of Sound Recordings

AGENCY: Copyright Office, Library of Congress.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Copyright Office is publishing for public comment proposed rules that will govern SoundExchange, an unincorporated division of the Recording Industry Association of America, Inc., when it functions as the designated agent for the purpose of receiving royalty payments and statements of accounts from nonexempt subscription digital transmission services which make digital transmissions of sound recordings under a statutory license.

DATES: Comments are due no later than May 21, 2003.

ADDRESSES: An original and five copies of any comment shall be delivered by hand to: Office of the General Counsel, Copyright Office, James Madison Building, Room LM–403, First and Independence Avenue, SE., Washington, DC; or mailed to: Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024–0977.

FOR FURTHER INFORMATION CONTACT: David O. Carson, General Counsel, or Tanya M. Sandros, Senior Attorney, Copyright Arbitration Royalty Panel, PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707–8380. Telefax: (202) 252–3423.

SUPPLEMENTARY INFORMATION:

Background

Section 106(6) of the Copyright Act, title 17 of the United States Code, gives copyright owners of sound recordings an exclusive right to perform their copyrighted work publicly by means of a digital audio transmission. This right is limited by section 114(d), which allows certain noninteractive digital audio services to transmit sound recordings under a compulsory license,

provided that the services pay a reasonable royalty fee and comply with the terms of the statutory license. Among the categories of services that may use the section 114 license are preexisting subscription services [1] of which there are only three: Digital Cable Radio Associates, now known as Music Choice; DMX Music, Inc. (''DMX''); and Muzak, L.P. (''Muzak'').

Rates and terms for this license are established in one of two ways. Interested parties may either negotiate rates and terms which, if approved through a notice and public comment proceeding, become the final rules for the relevant license period. Alternatively, if industry representatives cannot reach a voluntary settlement, the Librarian of Congress convenes a three-person Copyright Arbitration Royalty Panel (''CARP'') for the purpose of determining the applicable rates and terms.

In 1995, the Librarian of Congress initiated the first rate adjustment proceeding for the purpose of setting rates and terms of payment for use of sound recordings by the preexisting services pursuant to the section 114 license. The three preexisting subscription services and the Recording Industry Association of America (''RIAA'') participated in this proceeding which concluded with the issuance of a final rule and order by the Librarian of Congress. *See* 63 FR 25394 (May 8, 1998).

In that proceeding, the parties proposed, and the CARP adopted, a term which gave the RIAA the responsibility for collecting and distributing the royalty fees to all copyright owners. *Id.* at 25397. The Librarian adopted this term, then crafted additional regulations that afforded copyright owners a means to verify the accuracy of the royalty payments made by the RIAA collective,[2] established the value of each performance, specified the nature of the costs that RIAA may deduct from the royalty fees prior to distribution, and set forth a procedure for handling royalty fees in the case where the collective is unable to identify or locate a copyright owner who is entitled to receive royalties collected under the statutory license.

RIAA appealed both the rate set by the Librarian and the additional conditions imposed on the RIAA collective in its capacity as the collection agent for copyright owners. *See, Recording Industry Ass'n* v. *Librarian of Congress,* 176 F.3d 528 (D.C. Cir. 1999). The United States Court of Appeals for the District of Columbia Circuit upheld the rate set by the Librarian and found that the Librarian has the authority to impose terms on copyright owners or their agents. However, it remanded for further consideration certain terms imposed on RIAA under 37 CFR 260.2(d), 260.3(d), 260.6(b), and 260.7, because the CARP had not considered these issues, leaving the record devoid of any evidence upon which to fashion any terms concerning the collection and distribution of the royalty fees. *Id.* at 536.

On February 13, 2001, the Copyright Office initiated a new proceeding to consider the terms remanded by the court with the issuance of a scheduling order, directing the parties to this proceeding to file their direct cases with the Office on April 17, 2001. *See,* Order in Docket No. 96–5 CARP DSTRA (February 13, 2001). However, instead of filing a direct case on April 17, RIAA filed a petition to establish terms governing the RIAA collective and to suspend the scheduled proceeding. No party to the original proceeding objected to the proposed terms. In fact, Music Choice had already informed the Office by letter dated February 26, 2001, of its intent not to participate further in this proceeding and that it did not object to the terms to be proposed by RIAA.

Subsequently, RIAA revised these terms to remove a reference to the section 112 statutory license for the making of ephemeral copies and to make clear that membership in the collective is open only to those copyright owners whose works are subject to statutory licensing and thus generate the funds to be distributed by the collective. RIAA also asked the Copyright Office to publish the revised terms pursuant to § 251.63(b). This provision allows the Librarian of Congress to adopt proposed terms that are the result of settlement negotiations, provided that no person with a substantial interest and an intent to participate in a CARP proceeding files an objection. This procedure to adopt negotiated rates and terms in the case where an agreement has been reached has been specifically endorsed by Congress.

> If an agreement as to rates and terms is reached and there is no controversy as to these matters, it would make no sense to subject the interested parties to the needless expense of an arbitration proceeding conducted under (section 114(f)(2) (1995)). Thus, it is the Committee's intention that in such a case, as under the Copyright Office's current regulations concerning rate adjustment proceedings, the Librarian of Congress should notify the public of the proposed agreement in a notice-and-comment proceeding and, if no opposing comment is received from a party with a substantial interest and an intent to participate in an arbitration proceeding, the Librarian of Congress should adopt the rates embodied in the agreement without convening an arbitration panel.

S. Rep. No. 104–128, at 29 (1995)(citations omitted).

Accordingly, the Copyright Office published the proposed terms in the **Federal Register** and requested public comment. 66 FR 38226 (July 23, 2001). In response to this notice, the American Federation of Musicians (''AFM'') and the American Federation of Television and Radio Artists (''AFTRA'') filed a Notice of Intent to Participate and objections to certain of the proposed terms. Shortly thereafter, RIAA began discussions with AFTRA and AFM, regarding their objections, and the matter has been held in abeyance.

Since that time, a significant event has occurred that bears directly on the resolution of this proceeding. In December of 2002, Congress passed the Small Webcaster Settlement Act of 2002 (''SWSA''), Public Law 107–321, 116 Stat. 2780. Among other things, the SWSA amended 17 U.S.C. 114(g) in two important ways which address specific issues which are the subject of this proceeding. First, the SWSA provides for direct payment to featured recording artists and to the administrators of the escrow accounts provided for in 17 U.S.C. 114(g)(2)(B)&(C). Second, the act allows a designated agent, prior to the distribution of the royalty receipts, to deduct reasonable costs incurred by that agent in the administration of those receipts, including, but not limited to, costs associated with the collection and distribution of the royalty fees and the costs incurred in the participation of negotiations or arbitration proceedings under sections 112 and 114.

Because of these changes in the law, RIAA has again revised its proposed amendments to 37 CFR 260 to conform the terms in dispute to the new law and, in doing so, it has addressed the concerns of AFM and AFTRA. Consequently, AFM and AFTRA have withdrawn their objections to the proposed terms and their Notice of Intent to Participate in a CARP

[1] A ''preexisting subscription service'' is defined as: A service that performs sound recordings by means of noninteractive audio-only subscription digital audio transmissions, which was in existence and was making such transmissions to the public for a fee on or before July 31, 1998, and may include a number of limited number of sample channels representative of the subscription service that are made available on a nonsubscription basis in order to promote the subscription service. 17 U.S.C. 114(j)(11).

[2] In November 2000, RIAA formed ''SoundExchange,'' an unincorporated division of RIAA, to administer statutory licenses, including its responsibilities under the Librarian's May 8 Order. *See,* Revised RIAA Petition to Establish Terms Governing SoundExchange at 1 n.1.

proceeding. At this juncture, § 251.63(b) requires the publication of the proposed rules to provide those persons with a substantial interest in the proceeding with an opportunity to comment on the rules. Provided that no party who is entitled to participate in a CARP on remand of this proceeding and who has a substantial interest in the rules files an objection and a Notice of Intent to Participate in a CARP proceeding to resolve an objection within the scope of this proceeding, the proposed rules will be adopted as final regulations.

The proposed terms shall govern SoundExchange, the collecting rights entity that was formed from the designated RIAA collective, in its capacity as the sole agent designated to receive royalty payments from the three subscription services that were parties to this proceeding. Terms governing the administrative functions of any future collective or the designation of alternative agents shall be decided in future rate adjustment proceedings either through negotiations or after a hearing before a CARP based upon a fully developed written record. *See, e.g.*, 67 FR 45239 (July 8, 2002). For this reason, parties must limit their comments to the terms offered in the context of the proceeding to set rates and terms for the three subscription services—Music Choice, DMX, and Muzak—for the period October 28, 1998 (the effective date of the Digital Millennium Copyright Act) through December 31, 2001, the remand order, and the law as amended by the SWSA.

Should a person object to the proposed terms, he or she must file a written objection with the Copyright Office and an accompanying Notice of Intent to Participate. Any proceeding convened to consider these terms would be a continuation of the prior CARP proceeding, Docket No. 96–5 CARP DSTRA, on remand from the United States Court of Appeals for the District of Columbia Circuit. *See,* 17 U.S.C. 802(g). Therefore, the content of the written challenge must include a statement explaining the basis of the person's substantial interest in that proceeding and entitlement to participate in that proceeding, the proposed rule the person finds objectionable, and the reasons for the challenge. If no comments are received, the regulations shall become final upon publication of a final rule.

List of Subjects in 37 CFR Part 260

Copyright, Digital Audio Transmissions, Performance Right, Sound Recordings.

Proposed Regulation

In consideration of the foregoing, the Copyright Office proposes amending part 260 of 37 CFR as follows:

PART 260—USE OF SOUND RECORDINGS IN A DIGITAL PERFORMANCE

1. The authority citation for part 260 continues to read as follows:

Authority: 17 U.S.C. 114, 801(b)(1).

§ 260.2 [Amended]

2. In § 260.2, remove paragraph (d).

3. Section 260.3 is amended by revising paragraphs (c), (d), and (e) to read as follows:

§ 260.3 Terms for making payments of royalty fees.

* * * * *

(c) The agent designated to receive the royalty payments and the statements of account shall have the responsibility of making further distribution of these payments to those parties entitled to receive such payments according to the provisions set forth at 17 U.S.C. 114(g)(2); Provided that the designated agent shall only be responsible for making distributions to those parties who provide the designated agent with such information as is necessary to identify and pay the correct recipient for such payments. The agent shall distribute royalty payments on a reasonable basis that values all performances by a Licensee equally based upon the information provided by the Licensee pursuant to the regulations governing records of use of performances by Licensees; Provided, however, that parties who have designated the agent may agree to allocate their shares of the royalty payments made by any Licensee among themselves on an alternative basis. Parties entitled to receive payments under 17 U.S.C. 114(g)(2) may agree with the designated agent upon payment protocols to be used by the designated agent that provide for alternative arrangements for the payment of royalties consistent with the percentages in 17 U.S.C. 114(g)(2).

(d) The designated agent may deduct from the payments made by Licensees under § 260.2, prior to the distribution of such payments to any person or entity entitled thereto, all incurred costs permitted to be deducted under 17 U.S.C. 114(g)(3); Provided, however, that any party entitled to receive royalty payments according to 17 U.S.C. 114(g)(2) may agree to permit the designated agent to deduct any additional costs.

(e) Commencing June 1, 1998, and until such time as a new designation is made, SoundExchange, which currently is an unincorporated division of the Recording Industry Association of America, Inc., shall be the agent that receives royalty payments and statements of account under this part 260 and shall continue to be designated as such if it should be separately incorporated.

4. Section 260.6 is revised to read as follows:

§ 260.6 Verification of royalty payments.

(a) *General.* This section prescribes general rules pertaining to the method of verification of the payment of royalty fees by the designated agent to interested parties; Provided, however, that the designated agent and any interested person may agree as to an alternative method of verification.

(b) *Frequency of verification.* Interested parties may conduct a single audit of the designated agent during any given calendar year and no calendar year shall be subject to audit more than once.

(c) *Notice of intent to audit.* Interested parties must file with the Copyright Office a notice of intent to audit the designated agent. Such notice of intent shall also be served at the same time on the designated agent to be audited. Within 30 days of the filing of the notice of intent, the Copyright Office shall publish in the **Federal Register** a notice announcing such filing.

(d) *Retention of records.* The interested party requesting the verification procedure shall retain the report of the verification for a period of three years.

(e) *Acceptable verification procedure.* An audit, including underlying paperwork, which was performed in the ordinary course of business according to generally accepted auditing standards by an independent auditor, shall serve as an acceptable verification procedure for all interested parties.

(f) *Costs of the verification procedure.* The interested parties requesting the verification procedure shall pay for the cost of the verification procedure, unless an independent auditor concludes that there was an underpayment of five (5) percent or more, in which case, the designated agent shall bear the costs of the verification procedure.

(g) *Interested parties.* For purposes of this section, interested parties are those individuals or entities who are entitled to receive royalty payments pursuant to 17 U.S.C. 114(g)(2), or their designated agents.

5. Section 260.7 is amended by removing the word ''collecting'' after the phrase ''If the designated''; by removing the word ''collecting'' each place it appears and adding the word ''designated'' in its place; and in the last sentence, by removing the word ''fees'' and adding the word ''payments'' in its place.

Dated: April 15, 2003.

David O. Carson,

General Counsel.

[FR Doc. 03–9783 Filed 4–18–03; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–56–1–7491b; FRL–7485–7]

Approval and Promulgation of Implementation Plans; Louisiana: Revision to the Ozone Maintenance Plans for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans Consolidated Metropolitan Statistical Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We, the EPA, are proposing to take direct final action to approve a revision to the Louisiana SIP for Beauregard, St. Mary, Lafayette, and Grant Parishes and the New Orleans Consolidated Metropolitan Statistical Area (CMSA) ozone maintenance areas. The revision involves changes to the approved contingency plans.

DATES: Written comments must be received by May 21, 2003.

ADDRESSES: Written comments should be addressed to Mr. Thomas H. Diggs, Chief, Air Planning Section (6PD-L), at the EPA Region 6 Office listed below. Copies of documents relevant to this action are available for public inspection during normal business hours at the following locations. Anyone wanting to examine these documents should make an appointment with the appropriate office at least two working days in advance.

Environmental Protection Agency, Region 6, Air Planning Section (6PD-L), 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

Louisiana Department of Environmental Quality, Air Quality Division, 7290 Bluebonnet Boulevard, Baton Rouge, Louisiana 70810.

FOR FURTHER INFORMATION CONTACT: Joe Kordzi of the EPA Region 6 Air Planning Section, at (214) 665–7186 and at the Region 6 address above.

SUPPLEMENTARY INFORMATION: In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because EPA views this as a noncontroversial revision and anticipates no adverse comment. The EPA has explained its reasons for this approval in the preamble to the direct final rule. If EPA receives no relevant adverse comment, EPA will not take further action on this proposed rule. If EPA receives relevant adverse comment, EPA will withdraw the direct final rule and it will not take effect. The EPA will address all public comments in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

For additional information, see the direct final rule located in the ''Rules and Regulations'' section of this **Federal Register**.

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

Dated: April 10, 2003.

Richard E. Greene,

Regional Administrator, Region 6.

[FR Doc. 03–9620 Filed 4–18–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 02–380; DA 03–1022]

Unlicensed Devices

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends the deadline for filing comments on the proposal to make additional spectrum available for unlicensed devices to enable interested parties to submit information that will be beneficial to the record in this proceeding.

DATES: Comments are due April 17, 2003, and reply comments are due May 16, 2003.

ADDRESSES: Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., TW-A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Hugh Van Tuyl, Office of Engineering and Technology, (202) 418–7506, TTY (202) 418–2989, e-mail: *hvantuyl@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order,* ET Docket No. 02–380, DA 03–1022, adopted March 28, 2003, and released March 31, 2003. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW., Washington, DC 20554. The complete text of this document also may be purchased from the Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the FCC Consumer & Governmental Affairs Bureau at (202) 418–0531 (voice), (202) 418–7365 (TTY).

Summary of the Order

1. On March 24, 2003, the Association for Maximum Service Television, Inc. (MSTV) submitted a motion to the Commission to extend the comment and reply comment deadlines in the above captioned proceeding by 10 days, from April 7, 2003, and May 6, 2003, to April 17, 2003, and May 16, 2003, respectively. MSTV states that additional time is required to permit review and discussion of its comments by its board of directors before they can be approved and filed with the Commission.

2. The Commission does not routinely grant extensions of time in rule making proceedings. However, we find MSTV's circumstances compelling and we believe that providing more time will enable MSTV to submit information that will be beneficial to the record in this proceeding. In addition, such a brief extension will not cause undue delay. Therefore, we agree to extend the comment and reply comment deadlines by 10 days.

3. The deadline for filing comments in the above captioned proceeding is extended to April 17, 2003, and that the deadline for filing reply comments in the above captioned proceeding is extended to May 16, 2003.

4. This action is taken pursuant to the authority found in section 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303; and pursuant to §§ 0.31, 0.241 and 1.46 of the Commission's rules, 47 CFR 0.31, 0.241 and 1.46.

List of Subjects in 47 CFR Part 15

Communications equipment, Labeling, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–9688 Filed 4–18–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–1110, MB Docket No. 03–97, RM–10683]

Digital Television Broadcast Service; Juneau, AK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Capital Community Broadcasting, Inc., licensee of noncommercial educational station KTOO–TV, Juneau, Alaska, proposing the substitution of DTV channel *10 for DTV channel *6 at Juneau. DTV Channel *10 can be allotted to Juneau, Alaska, at reference coordinates 58–18–04 N. and 134–25–21 W. with a power of 0.748, a height above average terrain HAAT of 320.3 meters. Since the community of Juneau is located within 400 kilometers of the U.S.-Canadian border, concurrence from the Canadian government must be obtained for this allotment.

DATES: Comments must be filed on or before June 5, 2003, and reply comments on or before June 20, 2003.

ADDRESSES: The Commission permits the electronic filing of all pleadings and comments in proceeding involving petitions for rule making (except in broadcast allotment proceedings). *See Electronic Filing of Documents in Rule Making Proceedings,* GC Docket No. 97–113 (rel. April 6, 1998). Filings by paper can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Lawrence M. Miller, Schwartz, Woods & Miller, 1350 Connecticut Avenue, NW., Suite 300, Washington, DC 20036–1717 (Counsel for Capital Community Broadcasting, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 03–97, adopted April 4, 2003, and released April 14, 2003. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. 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.*

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

Digital television broadcasting, Television.

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.

§ 73.622 [Amended]

2. Section 73.622(b), the Table of Digital Television Allotments under Alaska is amended by removing DTV channel *6 and adding DTV channel *10, Juneau.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 03–9666 Filed 4–18–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 101

[ET Docket No. 98–206; RM–9147; RM–9245; FCC 03–85]

Permit Operation of NGSO FSS Systems Co-Frequency With GSO and Terrestrial Systems in the Ku-Band Frequency Range

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document the Commission seeks comment on the appropriate service area definition for the Multichannel Video Distribution and Data Service (MVDDS) in the 12.2–12.7 GHz band (12 GHz band). This action is taken in response to comments received in response to a January 30, 2003, auction public notice which sought comment on an MVDDS auction based on either CEAs or DMAs. Given that we are revisiting the service area definition, we also take this opportunity to explore whether the current build out requirement sufficiently promotes expeditious deployment of service. By these actions, we seek to deploy the new MVDDS in a manner that most efficiently and effectively allows for flexible use of the spectrum.

DATES: Comments are due on or before April 28, 2003, and reply comments are due on or before May 5, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., TW–A325, Washington, DC 20554. *See* **SUPPLEMENTARY INFORMATION** for filing instructions.

FOR FURTHER INFORMATION CONTACT: Jennifer Burton, Public Safety and Private Wireless Division, Wireless

Telecommunications Bureau at (202) 418–0680, e-mail *jburton@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the FCC's Further Notice of Proposed Rulemaking, FCC 03–85, adopted on April 10, 2003, and released on April 15, 2003. The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the FCC's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *www.fcc.gov*. Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov*.

1. In this Second Further Notice of Proposed Rulemaking (*NPRM*), we seek further comment on the appropriate service area definition for the Multichannel Video Distribution and Data Service (MVDDS) in the 12.2–12.7 GHz band (12 GHz band). Specifically, we seek comment on the most appropriate service area definition for the geographic licensing of MVDDS. We also seek comment on whether Designated Market Areas (DMAs) will facilitate delivery of advanced wireless services, such as video and data broadband services, to a wide range of populations, including those areas that are unserved and underserved. In addition, we seek comment on whether we should modify the MVDDS build out requirement as a means to foster expeditious deployment of advanced wireless services, such as video and data broadband services, to these communities as well.

Procedural Matters

Initial Regulatory Flexibility Analysis

2. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals suggested in this document. Below contains the IRFA. We request written public comments on the IRFA. In order to fulfill the mandate of the Contract with America Advancement Act of 1996 regarding the Final Regulatory Flexibility Analysis, we ask a number of questions regarding the prevalence of small businesses in the affected industries.

3. Interested parties must file comments in accordance with the same filing deadlines as comments filed in this *NPRM*, but they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this *NPRM*, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act.

Ex Parte Rules—Permit-But-Disclose Proceedings

4. This is a permit-but-disclose notice and comment rule making proceeding. Our rules permit *ex parte* presentations, except during the Sunshine Agenda period, provided they are disclosed as provided in the Commission's rules. *See generally* 47 CFR 1.1202, 1.1203, and 1.2306(a).

Comment Dates

5. Pursuant to §§ 1.415 and 1.419 of our rules, interested parties may file comments on or before 7 days from the date of publication in the **Federal Register** and reply comments on or before 14 days from the date of publication in the **Federal Register**. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS), *http://www.fcc.gov/e-file/ecfs.html*, or by filing paper copies.

6. Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov*, and should including the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

7. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rule making number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commissioner's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., TW–A325, Washington, DC 20554. All filings must be addressed to the Commissioner's Secretary, Office of the Secretary, Federal Communications Commission.

8. Parties who choose to file by paper should also submit their comments on diskette. Such a submission should be on a 3.5-inch diskette formatted in an IBM compatible format using Microsoft Word or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleading, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contract, 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*.

9. Alternative formats (computer diskette, large print, audio cassette and Braille) are available to persons with disabilities by contacting Brian Millin at (202) 418–7426, TTY (202) 418–7365 or via e-mail to *bmillin@fcc.gov*. This *NPRM* can also be downloaded at *http://www.fcc.gov/wtb*.

Further Information

10. The World Wide Web addresses/URLs that we give here were correct at the time this document was prepared but may change over time. They are included herein in addition to the

conventional citations as a convenience to readers. We are unable to update these URLs after adoption of this *NPRM*, and readers may find some URLs to be out of date as time progresses. We also advise readers that the only definitive text of FCC documents is the one that is published in the FCC Record. In case of discrepancy between the electronic documents cited here and the FCC Record, the version in the FCC Record is definitive.

Initial Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this Second Further Notice of Proposed Rulemaking (*NPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *NPRM* provided in paragraph 124 of the item. The Commission will send a copy of this *NPRM*, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

Need for, and Objectives of, the Proposed Rule

12. In this *NPRM*, we revisit the issues of the geographic licensing scheme for MVDDS and build-out requirements. In the Second Report and Order, the Commission adopted geographic license service areas for MVDDS on the basis of Component Economic Areas (CEAs). Based on the previously-established record in this proceeding, and on subsequent discussions between Commission staff and Nielsen representatives which indicate that, although Nielsen remains unable to enter into a formal agreement to allow the Commission to use its Designated Market Area (DMA) designation for the MVDDS service areas, Nielsen does not object to the Commission's use of DMAs in this manner, subject to certain parameters. Specifically, in a letter received on March 26, 2003, it appears that Nielsen would agree to extend a perpetual, royalty-free license to the Commission, without the right to sublicense, to its DMA mark and regions, provided that the Commission:

(i) Agrees, and continues to communicate to prospective MVDDS suppliers, that a territorial license from the Commission to supply MVDDS does not confer the right to use Nielsen Media Research's DMA mark, regions or data, and that such right must be obtained from Nielsen Media Research on such terms as may be mutually acceptable to Nielsen Media Research and the supplier, in their sole and respective discretion, and (ii) does not republish DMA regions or data in any statute, regulation or rule or otherwise.

13. We are concerned that Nielsen's conditions on the use of DMAs may unduly limit the business plans and opportunities for MVDDS licensees. By its most recent letter, Nielsen makes it clear that it is unwilling to consent to allowing the Commission's MVDDS licensees use the DMA mark, regions or data in their MVDDS business without an individual license from Nielsen. Thus, it does not appear that the license Nielsen described would give Commission licensees sufficient flexibility to make practical use of the DMA designation in connection with their MVDDS operations. Additionally, although the Commission could cross-reference DMAs in its rules, Nielsen's limitations may interfere with our enforcement flexibility, since Nielsen does not want us to ''republish DMA regions or data in any statute, regulation or rule or otherwise.'' We seek comment on whether the conditions described by Nielsen are so restrictive that use of DMAs would be of limited utility to small businesses. We also request comment on the potential impact on small business plans if we change the service area designation.

14. Given that we are revisiting the service area definition, we also take this opportunity to explore whether the current build out requirement sufficiently promotes expeditious deployment of service, particularly for those communities that are traditionally unserved or underserved. As indicated earlier, the Second R&O establishes a ten-year build out requirement for the MVDDS licensees based on substantial service as a basis for a renewal expectancy. MDS America has expressed concern that a ten-year build out period for MVDDS licenses was too long given the potential for anti-competitive warehousing of spectrum in this service and the great demand for rural broadband service. MDS America supports a five-year build out period, a requirement advocated by other commenters in this record.

15. We seek limited comment on the timing of whether a 10-year build out requirement is optimal for fostering expeditious delivery of advanced wireless services to all communities, in particular communities that are traditionally unserved or underserved. In addition, we seek comment on whether a shorter build out requirement will facilitate more effective deployment of these services as well as the appropriate benchmark for a buildout requirement. Finally, we seek comment on the potential impact on small business plans if we change the build out requirement.

16. We seek comment on the following issues under consideration in this *NPRM*:

- The appropriate service area designation for MVDDS.
- The appropriate buildout requirement for MVDDS.

Legal Basis

17. The proposed action is authorized under the Administrative Procedure Act, 5 U.S.C. 553; and sections 1.4(i), 7, 301, 303, 308 and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157, 301, 303, 308 and 309(j).

Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

18. The RFA directs agencies to provide a description of, and, where feasible an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

19. Small Multichannel Video Programming Distributors (MVPDs). SBA has developed a definition of small entities for cable, which includes all such companies generating $11 million or less in annual receipts. This definition includes cable system operators and DBS services. According to the Census Bureau data from 1992, there were 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. We address below each service individually to provide a more precise estimate of small entities.

20. Cable Services. The Commission has developed, with SBA's approval, our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. We last estimated that there

were 1439 cable operators that qualified as small cable companies. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, using this definition, we estimate that there are fewer than 1439 small entity cable system operators that may be affected by the decisions and rules adopted in the Second Report and Order.

21. The Communications Act defines a small cable system operator as ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 61,700,000 subscribers in the United States. Therefore, an operator serving fewer than 617,000 subscribers shall be deemed a small operator under the Communications Act definition, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that the number of cable operators serving 617,000 subscribers or less totals approximately 1450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

22. DBS Service. Because DBS provides subscription services, DBS falls within the SBA definition of Cable Networks (NAIC 513210) and Cable and Other Program Distribution (NAIC 513220). This definition provides that a small entity is expressed as one with $11 million or less in annual receipts. The operational licensees of DBS services in the United States are governed by part 100 of the Commission's Rules. The Commission, however, does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees meeting this definition that could be impacted by these rules. DBS service requires a great investment of capital for operation, and we acknowledge that there are entrants in this field that may not yet have generated $11 million in annual receipts, and therefore may be categorized as a small business by the SBA, if independently owned and operated.

23. Auxiliary, Special Broadcast and other program distribution services. This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radio networks (NAICS 513111), radio stations (NAICS 513112), and television broadcasting (NAICS 513120). These definitions provide, respectively, that a small entity is one with either $5 million or less in annual receipts or $10.5 million in annual receipts. The numbers of these stations are very small. The Commission does not collect financial information on these auxiliary broadcast facilities. We continue to believe, however, that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most of these types of services are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business (as noted, either $5 million for a radio station or $10.5 million for a TV station). Furthermore, they do not meet the SBA's definition of a ''small business concern'' because they are not independently owned and operated.

24. Private Operational Fixed Service. Incumbent microwave services in the 12.2–12.7 GHz bands include common carrier, private operational fixed (POF), and BAS services. Presently, there are approximately 22,015 common carrier licensees, and approximately 61,670 POF licensees and broadcast auxiliary radio licensees in the microwave service. Inasmuch as the Commission has not yet defined a small business with respect to these incumbent microwave services, we utilized the SBA's definition applicable to cellular and other wireless telecommunications companies (NAICS 513322); *i.e.*, an entity with no more than 1500 persons. We estimate, for this purpose, that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone companies.

25. The rules set forth in the Second Report and Order will affect all entities that intend to provide terrestrial MVDDS operations in the 12.2–12.7 GHz band. In the Second Report and Order, the Commission stated that licensees are permitted to use MVDDS spectrum for, among other things, fixed one-way direct-to-home/business video and data services.

26. Additionally, in the Second Report and Order, the Commission adopted definitions for three tiers of small businesses for the purpose of providing bidding credits to small entities. Specifically, we defined the three tiers of small business as: (a) An ''entrepreneur'' is an entity with average annual gross revenues not exceeding $40 million for the preceding three years; (b) a ''small business'' is an entity with average annual gross revenues not exceeding $15 million for the preceding three years; and (c) a ''very small business'' is an entity with average annual gross revenues not exceeding $3 million for the preceding three years. We will not know how many auction participants or licensees will qualify under these definitions as entrepreneurs, small businesses, or very small businesses until an auction is held. However, upon reviewing the record in the MVDDS proceeding, we assume that, for purposes of our evaluations and conclusions in the FRFA, a number of the prospective licensees will be entrepreneurs, small businesses, or very small businesses under our adopted definitions.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

27. This *NPRM* imposes no new reporting, recordkeeping or other compliance requirements not previously adopted in this proceeding Paperwork Reduction Act of 1995, Pub. L. No. 104–13.

Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

28. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design standards; and (4) an exemption from

coverage of the rule, or any part thereof, for small entities.

29. With respect to its decision to use CEAs as the basis for the MVDDS service, the Commission noted that adopting CEAs would provide similar benefits as DMAs but would better promote its objectives and address commenters' concerns. Specifically, the Commission premised its decision on three factors. First, the smaller CEA service areas would better track actual deployment of fixed services. Second, CEAs would encourage rapid service deployment to less populated and rural regions because they will permit additional opportunities for small businesses to provide MVDDS. Third, the use of CEAs would encourage the meaningful participation of small businesses better than a nationwide or regional geographic licensing approach because the smaller areas would likely require a lower minimum investment. Further, the Commission noted that for those seeking a regional or national footprint, the use of CEAs would not prevent them from aggregating areas to create such larger networks.

30. While we do not prejudge the type of services licensees will offer in the 12 GHz band, we nonetheless believe that it is appropriate to adopt a service area definition that will afford MVDSS licensees the opportunity to provide a wide array of services. Based on the record in this proceeding, we believe that utilizing DMAs may be more effective in this regard. DMAs, as compared to CEAs, provide a better method to delineate television markets based on viewing patterns. Consequently, for those MVDDS licensees seeking to provide MVPD service offerings involving the retransmission of broadcast programming, the use of DMAs could provide additional economic benefits. For example, MVDDS licensees with service offerings involving the delivery of television programming may find the use of DMAs to be administratively easier due to the close nexus between the television viewer market areas as determined by the DMA delineation and the proposed use of the service.

31. As to other uses, including fixed services, we believe that DMAs and CEAs are equally advantageous because they are both local in nature. While we recognize that CEAs are smaller than DMAs, we continue to believe that DMAs, which are county-based, provide a viable option in facilitating local access to cable, non-cable, and MVDDS service offerings. Consequently, we believe that both DMAs and CEAs would encourage rapid service deployment in unserved or underserved areas and encourage meaningful participation by small businesses. Additionally, entities desiring a national footprint, may aggregate either DMAs or CEAs to create such larger networks.

Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

32. None.

Ordering Clauses

33. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Second Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 603(a).

34. Pursuant to the authority contained in sections 4, 4(i), 7, 303, 303(g), 303(r), 307 and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. 154, 154(i), 157, 303, 303(g), 303(r), 307, this Second Further Notice of Proposed Rulemaking is adopted.

List of Subjects in 47 CFR Part 101

Communication equipment, Radio, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

For the reasons discussed in the preamble the FCC proposes to amend 47 CFR part 101 as follows:

PART 101—FIXED MICROWAVE SERVICES

1. The authority citation for part 101 continues to read as follows:

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

2. Section 101.1401 is revised to read as follows:

§ 101.1401 Service areas.

Multichannel Video Distribution and Data Service (MVDDS) is licensed on the basis of Designated Market Areas (DMAs). The 214 DMA service areas are based on the 210 Designated Market Areas delineated by Nielsen Media Research and published in its pamphlet entitled U.S. Television Household Estimates, September 2002, plus four FCC-defined DMA-like service areas:

(a) Alaska—Balance of State (all geographic areas of Alaska not included in Nielsen's three DMAs for the state: Anchorage, Fairbanks, and Juneau);

(b) Guam and the Northern Mariana Islands;

(c) Puerto Rico and the United States Virgin Islands; and

(d) American Samoa.

3. Section 101.1421 is amended by revising paragraphs (b) and (c) to read as follows:

§ 101.1421 Coordination of adjacent area MVDDS stations and incumbent public safety POFS stations.

* * * * *

(b) Harmful interference to public safety stations, co-channel MVDDS stations operating in adjacent geographic areas, and stations operating on adjacent channels to MVDDS stations is prohibited. In areas where the DMAs are in close proximity, careful consideration should be given to power requirements and to the location, height, and radiation pattern of the transmitting and receiving antennas. Licensees are expected to cooperate fully in attempting to resolve problems of potential interference before bringing the matter to the attention of the Commission.

(c) Licensees shall coordinate their facilities whenever the facilities have optical line-of-sight into other licensees' areas or are within the same geographic area. Licensees are encouraged to develop operational agreements with relevant licensees in the adjacent geographic areas. Incumbent public safety POFS licensee(s) shall retain exclusive rights to its channel(s) within the relevant geographical areas and must be protected in accordance with the procedures in § 101.103 of this part. A list of public safety incumbents is attached to the released Memorandum Opinion and Order and Second Report and Order, Docket 98–206 released May 23, 2002. Please check with the Commission for any updates to that list.

[FR Doc. 03–9681 Filed 4–18–03; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 68, No. 76
Monday, April 21, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (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: Submit comments on or before June 20, 2003.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov*.

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0011.

Form No.: AID 1010–2.

Title: Application for Assistance—American Schools and Hospitals Abroad.

Type of Review: Renewal of Information Collection.

Purpose: USAID finances grant assistance to U.S. founders or sponsors who apply for grant assistance from ASHA on behalf of their institutions overseas. ASHA is a competitive grants program. The office of ASHA is charged with judging which applicants may be eligible for consideration and receive what amounts of funding for what purposes. To aid in such determination, the office of ASHA has established guidelines as the basis for deciding upon the eligibility of the applicants and the resolution on annual grant awards. These guidelines are published in the **Federal Register**, Doc 79–36221.

Annual Reporting Burden:

Respondents: 85.

Total annual responses: 85.

Total annual hours requested: 1,020 hours.

Dated: April 10, 2003.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services Bureau for Management.

[FR Doc. 03–9705 Filed 4–16–03; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (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: Submit comments on or before June 20, 2003.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC., 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov.*

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0035.

Form No.: AID 1550–2.

Title: Private and Voluntary Organization Annual Return

Type of Review: Renewal of Information Collection.

Purpose: USAID is required to collect information regarding the financial support of private and voluntary organizations registered with the Agency. The information is used to determine the eligibility of PVOs to receive USAID funding.

Annual Reporting Burden:

Respondents: 459.

Total annual responses: 442.

Total annual hours requested: 1,320 hours

Dated: April 11, 2003.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 03–9706 Filed 4–18–03; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV03–916–610 Review]

Nectarines, Pears, and Peaches Grown in California

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of review and request for comments.

SUMMARY: This notice announces that the Agricultural Marketing Service (AMS) plans to review Marketing Orders 916 and 917 for nectarines, pears, and peaches grown in California, under the criteria contained in section 610 of the Regulatory Flexibility Act (RFA).

DATES: Written comments on this notice must be received by June 20, 2003.

ADDRESSES: Interested persons are invited to submit written comments concerning this notice of review.

Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938, or E-mail: *moab.docketclerk@usda.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours, or may be viewed at *http://www.ams.usda.gov/fv/moab.html.*

FOR FURTHER INFORMATION CONTACT: Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, CA 93721; telephone: (559) 487–5901; Fax: (559) 487–5906; E-mail: *Kurt.Kimmel@usda.gov;* or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237;: (202) 720–8938, or E-mail: *George.Kelhart@usda.gov.*

SUPPLEMENTARY INFORMATION: Marketing Orders No. 916 and 917, as amended (7 CFR parts 916 and 917), regulate the handling of nectarines, pears, and peaches grown in California. The marketing orders are effective under the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674). The pear provisions and regulations have been suspended since 1994.

AMS initially published in the **Federal Register** (63 FR 8014; February 18, 1999), its plan to review certain regulations, including Marketing Orders No. 916 and 917, under criteria contained in section 610 of the Regulatory Flexibility Act (RFA; 5 U.S.C. 601–612). An updated plan was published in the **Federal Register** on January 4, 2002 (67 FR 525). Because many AMS regulations impact small entities, AMS has decided, as a matter of policy, to review certain regulations which, although they may not meet the threshold requirement under section 610 of the RFA, warrant review.

The purpose of the review will be to determine whether the marketing orders for nectarines and peaches grown in California should be continued without change, amended, or rescinded (consistent with the objectives of the AMAA) to minimize the impacts on small entities. For pears, the purpose of the review will be to determine whether the marketing order for pears should be reactivated without change, amended, or rescinded. In conducting this review, AMS will consider the following factors: (1) The continued need for the marketing orders; (2) the nature of complaints or comments received from the public concerning the marketing orders; (3) the complexity of the marketing orders; (4) the extent to which the marketing orders overlap, duplicate, or conflict with other Federal rules, and, to the extent feasible, with State and local governmental rules; and (5) the length of time since the marketing orders have been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the marketing orders.

An official of USDA will preside over the meeting. Those wishing to make oral comments will be asked to register with the official at the meeting. A time limitation of ten minutes for each commenter may be imposed. Questions to participants from the audience will not be permitted.

Authority: 7 U.S.C. 601–674.

Dated: April 15, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–9673 Filed 4–18–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Food Distribution Programs and Associated Forms

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Nutrition Service (FNS) is publishing for public comment a summary of a proposed information collection for reporting and recordkeeping burdens associated with the Food Distribution Programs and their associated forms. The proposed collection is an extension of collections currently approved under OMB No. 0584–0293.

DATES: Written and faxed comments must be received on or before June 20, 2003.

ADDRESSES: Comments may be mailed or faxed to Rosalind Cleveland, Chief, Program Support Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302. The fax number is 703–305–1410. Comments may also be e-mailed to: *fdd-pst@fns.usda.gov.*

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, including the validity of the methodology and assumptions used; (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 those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 508.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Rosalind Cleveland at 703–305–2888.

SUPPLEMENTARY INFORMATION: Title: Food Distribution Programs.

OMB Number: 0584–0293.

Forms Information: See chart below.

Expiration Date: June 30, 2003.

Type of Request: Revision of Currently Approved Information Collection.

Abstract: Food and Nutrition Service regulations under 7 CFR 240 require recordkeeping for Cash in Lieu of Donated Foods; under 7 CFR 247 require reporting (Form FNS–153) and recordkeeping for the Commodity Supplemental Food Program; under 7 CFR 250 require reporting (Forms FNS–7, FNS–57, FNS–663, FNS–155, FNS–52, FNS–53, FNS–519A—Discontinued, FNS–519B—Discontinued, FNS–586A—Discontinued, FNS–586B—Discontinued) for Food Distribution Programs; under 7 CFR 251 require reporting (Form FNS–667) and recordkeeping for the Emergency Food Assistance Program; under 7 CFR 253/254 require reporting (Forms FNS–152, FNS–57) and recordkeeping for the Food Distribution Program on Indian Reservations. See the following chart for a listing of forms and burden hours.

Respondents: 7 CFR Section 240: School Food Authorities, State

Agencies; 7 CFR Section 247: Local Agencies, State Agencies; 7 CFR Section 250: School Food Authorities, State Agencies, Food Processing Industry; 7 CFR Section 251: Local Agencies, State Agencies; 7 CFR Section 252: Local Agencies, ITOs.

Estimated Number of Respondents: 396,893 (See chart).

Number of Responses per Respondent: 2.3 (See chart).

Estimated Total Annual Responses: 918,862 (See chart).

Estimated Time per Response: 1.25607 hours (See chart).

Estimated Total Annual Burden on Respondents: 1,154,152 (See chart).

FDD OMB BURDEN INVENTORY

Section of regulations	Aggregate totals by regulation	Respondents	Annual responses	Total Manhours
240	Recordkeeping	15,662	187,944	46,986
247	Reporting—no forms	1,675	685,660	349,300
247	Reporting—forms	20	240	1,512
247	Recordkeeping	140	1,680	84
250	Reporting—no forms	16,360	18,131	12,219
	Reporting—forms	5,245	18,804	37,606
	Recordkeeping	234,016		18,908
251	251 Reporting—forms	270	564	2,254
	Recordkeeping	3,482		672,439
252	Recordkeeping			
253&254	253&254	4,597	4,524	2,323
		247	1,314	2,948
		86,809		7,573
	Grand Total	396,893	918,862	1,154,152
	Est. Number of Responses per Respondent	2.3		
	Burden Hours per Response	1.25607		

Changes:

7 CFR Part 250—Changes in the Older American Act Amendments of 2000 eliminating the need to report the number of meals served in the program during the current year. The meal count report forms, FNS–586A and FNS–586B, were discontinued	−1,415
7 CFR Part 250—Requirement to report TEFAP participation data on the FNS–155 has been discontinued	−28
7 CFR Part 251—Reduction in the number of State review reports submitted to EFAs by lowering the number of reviews required and the number of reports of findings to EFAs	−672
7 CFR Part 251—Incorporate activities from ICB #0584–0385, TEFAP Admin Costs and Form FNS–667, into comprehensive FDD package.	+963
7 CFR Part 252—The National Commodity Processing (NCP) program was discontinued in FY1995, although authorized through 2002. The reporting burden was eliminated with the last ICB renewal. Now that the 3 year recordkeeping requirement has passed, the burden hours under this part will be eliminated	−2,306
7 CFR Part 253/254—Requires documentation of child support and Medicare Part B payments during FDPIR certification process.	+79
7 CFR Part 253/254—Prime Vendor Pilot—testing ways to streamline commodity ordering and delivery to ITOs participating in FDPIR	+23
Total	−3,356

Dated: April 14, 2003.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 03–9712 Filed 4–18–03; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Federal Claims Collection Methods for Food Stamp Program Recipient Claims

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this Notice invites the general public and other public agencies to comment on proposed information collections. This Notice of Proposed Information Collection announces the intent of the Food and Nutrition Service to revise and extend the information collection requirements associated with initiating and conducting Federal collection actions against households with delinquent food stamp recipient debts.

DATES: Written comments must be submitted on or before June 20, 2003 to be assured consideration.

ADDRESSES: Send comments to Barbara Hallman, Chief, State Administration Branch, Food and Nutrition Service, USDA, 3101 Park Center Drive, Room 820, Alexandria, Virginia, 22302.

Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), 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 will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (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 those who are to respond, including through the use of appropriate, automated, electronic, mechanical, or other technological collection

techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Contact Leslie Byrd at (703) 305–2383 for further information.

SUPPLEMENTARY INFORMATION:

Title: Federal Claims Collection Methods for Food Stamp Program Recipient Claims.

OMB Number: 0584–0446.

Form Number: None.

Expiration Date: April 30, 2003.

Type of Request: Revision of a currently approved collection.

Abstract: Section 13(b) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2022(b)), and Food Stamp Program (FSP) regulations at 7 CFR 273.18 require State agencies to refer debtors with food stamp recipient debts that have been delinquent for 180 days or more to the Treasury Offset Program (TOP). This program intercepts Federal income tax refunds, Federal salaries and other Federal payments earmarked for these delinquent debtors. Also, the referral of delinquent debtors to TOP is required by the Debt Collection Improvement Act of 1996.

TOP places a burden on States agencies and/or the general public in three areas: 60-day notices; State-level submissions; and automated data processing (ADP).

TOP 60-Day Notice Proposed Burden

The proposed burden associated with the 60-day notice involves both the debtors and the general public. The 60-day notice notifies the debtor of the referral to TOP and provides the right for appeal. The State agency needs to prepare and mail the notices as well as respond to inquiries and appeals. The debtor, in turn, receives and reads the notice and then may make an inquiry or appeal the impending action if the debtor believes that the impending action is incorrect. Based on calendar year 2002 totals, we estimate that State agencies will send out and that debtors will read 276,366 notices. In addition, we estimate that the debtors will submit and State agencies will respond to about 2,700 inquiries and appeals. The total number of responses being proposed for the 60-day notice portion of the proposed burden is 279,066 respondents (276,366 notices + 2,700 follow-up inquiries and appeals) per year resulting in an annual reporting and recordkeeping burden of 39,549 hours. The existing burden for activity relating to the 60-day notice is 58,177 hours based on 369,045 respondents. The net reduction of 18,628 hours (58,177 hours − 39,549 hours) is due to the fact that State agencies are no longer required to send a 60-day notice to every delinquent debtor every year.

TOP State-level Submissions

The TOP offsets themselves are conducted by Treasury with FNS acting as an intermediary between the State agency and Treasury. While conducting this Operation State agencies must submit specified documents and/or information to FNS. The first such document is an annual letter to FNS certifying that all of the debts submitted by the State agency to TOP are legally enforceable and collectible. The second document certifies that Internal Revenue Service (IRS) information is safeguarded in accordance with IRS instructions. Lastly, State agencies report TOP collections on the FNS–209 Status of Claims Against Households report. (The burden for the remainder of the FNS–209 report is already covered under OMB burden number 0584–0069.)

FNS estimates that it will take State agencies a total of 135 hours per year for these State submissions. This is 1,381 hours less than the corresponding existing reporting and recordkeeping burden of 1515 hours. The reason for the decrease is the elimination of several reporting requirements and submissions including the pre-certification estimate, voluntary payment report and the State-level activity relating to Federal salary offset. These submission requirements have been eliminated, as they are no longer necessary for TOP.

TOP ADP Proposed Burden

The proposed burden for ADP includes weekly file processing, monthly address requests and system maintenance. Weekly file processing includes adding and maintaining debts in TOP, correcting errors on unprocessable records, and posting weekly collection files. Much of this activity is completed using automation and involves nearly 400,000 annual responses. FNS estimates that this activity takes 9,710 annual reporting and recordkeeping burden hours.

State agencies use an automated process to request and receive up-to-date addresses for the purpose of sending out 60-day notices. FNS is estimating that this activity will take about 5,457 reporting and recordkeeping burden hours per year. The last ADP activity associated with this burden is system maintenance. FNS estimates that this activity will take 1,272 burden hours per year.

The total proposed annual reporting and recordkeeping burden for ADP activity is 16,439 hours. This is an increase of 4,329 hours over the previously approved burden associated with ADP activity. The primary reason for the increase is the additional work associated with the monthly address requests. FNS believes that this activity is necessary to assure that 60-day notices are being sent to the correct addresses.

Summary of Estimated Burden

The net aggregate change from the existing to the proposed annual burden for this entire Proposed Collection is a decrease of 15,680 hours. For the activity relating to the 60-day notice, we are reducing the estimated annual burden for State agencies and households from 58,177 hours to 39,549 hours to reflect the fact that there is no longer a need to send a notice to every household every year. The State-level submissions portion of the reporting and recordkeeping burden is being reduced from 1,515 to 135 hours as several reports and submissions have been eliminated. The annual ADP portion of this burden package is being increased from 12,110 to 16,439 hours primarily to reflect the processing associated with monthly address requests.

Affected Public: State and local government, and food stamp households.

Estimated Number of Respondents: 279,119.

Number of Responses per Respondent: from 1 to 52.

Total Number of Annual Responses: 996,682.

Estimated Time per Response: from 1 minute to 8 hours.

Estimated Total Annual Burden: 56,123 hours.

Dated: April 14, 2003.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 03–9717 Filed 4–18–03; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

Census Bureau

Current Population Survey (CPS)—School Enrollment/Computer Use/and Cell Phone Use Supplement

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 20, 2003.

ADDRESSES: Direct all written comments to Diana Hyneck, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *DHyneck@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument(s) and instructions should be directed to Karen Woods, Census Bureau, FOB 3, Room 3340, Washington, DC 20233–8400, (301) 763–3806.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request clearance for the collection of data concerning three combined supplements to be conducted in conjunction with the October 2003 CPS. The three combined supplements are: the School Enrollment Supplement, the Computer Use Supplement, and the Cell Phone Use Supplement. Title 13, United States Code, Section 182, and Title 29, United States Code, Sections 1–9, authorize the collection of the CPS information.

The *School Enrollment Supplement* is jointly sponsored by the Census Bureau and the Bureau of Labor Statistics. The basic school enrollment questions have been collected annually in the CPS for 30 years. This survey is the only source of national data on the age distribution and family characteristics of college students and the only source of demographic data on preprimary school enrollment. As part of the federal government's effort to collect data and provide timely information to local governments for policymaking decisions, the survey provides national trends in enrollment and progress in school.

The *Computer Use Supplement* is jointly sponsored by the National Telecommunications and Information Administration, the Economics and Statistics Administration, the National Center for Education Statistics, and the Bureau of Labor Statistics. This survey will provide a source of national and state level data on the demographic, social, and economic characteristics of Internet users and non-users. The development of statistical profiles of disadvantaged groups and specific geographic areas will permit public-private partnerships to target assistance to those that are most in need. It will provide information on where users access the Internet (at home, work, school, or other facility), the features used, and the reasons for nonuse of the Internet.

The *Cell Phone Use Supplement* is jointly sponsored by the Bureau of Labor Statistics and the Census Bureau. This survey will provide a source of national and state level data on the demographic, social, and economic characteristics of cell phone users and nonusers. These data will help federal data collection agencies to determine if primary cell phone users constitute a new source of nonresponse in telephone surveys. The supplement data also will make it possible to study general nonresponse bias in telephone surveys.

II. Method of Collection

The combined school enrollment, computer use, and cell phone use information will be collected by both personal visit and telephone interviews in conjunction with the regular October CPS interviewing. All interviews are conducted using computer-assisted interviewing.

III. Data

OMB Number: 0607–0464.

Form Number: There are no forms. We conduct all interviews on computers.

Type of Review: Regular.

Affected Public: Households.

Estimated Number of Respondents: 57,000.

Estimated Time Per Response: 12 minutes.

Estimated Total Annual Burden Hours: 11,400.

Estimated Total Annual Cost: The only cost to respondents is that of their time.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C., Section 182, and Title 29, U.S.C., Sections 1–9.

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 the Office of Management and Budget approval of this information collection; they also will become a matter of public record.

Dated: April 15, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–9676 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–07–M

DEPARTMENT OF COMMERCE

Census Bureau

The 2004 Overseas Enumeration Test

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(C)(2)(A)).

DATES: Written comments must be submitted on or before June 20, 2003.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, 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 instruments and instructions should be directed to Idabelle Hovland, U.S. Census Bureau, Building 2, Room 2108, Washington, DC 20233–9200, 301–763–8443.

SUPPLEMENTARY INFORMATION:

I. Abstract

In the 1990 and 2000 Censuses, only federal civilian employees, U.S. military, and their dependents living overseas were included in the census. Counts of these people by state were obtained from administrative records and were included in the state

populations for the purpose of determining the apportionment of seats in the U.S. House of Representatives. No characteristics were collected for this population, and they were not included in any other tabulations or decennial census data products.

Leading up to the 2000 Census, some Members of Congress, responding to concerns from groups representing overseas Americans, expressed an interest in expanding the census to include all Americans living overseas—private U.S. citizens as well as the federally affiliated. The Bureau informed interested stakeholders that it was too late to pursue an expanded overseas enumeration for 2000, but would investigate the feasibility for the 2010 Census.

In December 2000, as part of the Census Bureau's appropriations bill for FY 2001, the Congress directed that the Census Bureau submit by September 30, 2001, a report on any methodological, logistical, or other issues associated with the inclusion of Americans living abroad in future decennial censuses. The Census Bureau submitted its report September 28, 2001. In the report, the Census Bureau outlined various policy, conceptual, and methodological issues that would have to be addressed during research and testing for the 2010 Census. The report indicated that a conference would be held with stakeholders in the near future and cited plans to conduct a test in 2004.

In November 2001, the Census Bureau held the ''Conference on an Enumeration of Americans Overseas in the 2010 Census,'' attended by more than two dozen stakeholders, to begin to address issues identified in the September report and obtain input.

In January 2002, the Census Bureau convened the 2010 Overseas Enumeration Research and Planning Group to address policy issues and develop and test a prototype system for collecting data from all Americans living overseas. The feasibility of such an enumeration will be assessed based on the information obtained from the testing cycle.

In preparation for the 2010 Census, the Census Bureau plans to conduct the 2004 Overseas Enumeration Test as part of a research and testing program designed to determine the feasibility, quality, and cost of enumerating Americans living overseas during the 2010 Census. The results of the 2004 Test will be used to provide information and recommendations to inform a test in 2006. If the Census Bureau and the Congress decide to include an expanded overseas enumeration in the 2010 census, a ''dress rehearsal'' would be conducted in 2008.

The 2004 Test will include U.S. citizens living in France, Kuwait, and Mexico, regardless of how long they have resided abroad (this does not include those on vacations or short business trips). People who are not U.S. citizens will not be included in the counts.

The Census Bureau selected France, Kuwait, and Mexico as test sites based on several criteria. For example, we wanted to have geographic diversity, significant numbers of U.S. citizens, and estimates from administrative records that could be compared to the test census counts for evaluation purposes.

The objectives of the 2004 Overseas Enumeration Test are to determine the feasibility, quality and cost of collecting data from U.S. citizens living overseas.

II. Method of Collection

The Census Bureau will develop a communications strategy to inform and motivate respondents living in the test countries to answer the census. Using this communications strategy, overseas Americans in these test countries will be made aware of the Census Bureau's methodology to enumerate them in the 2004 Test.

To enumerate overseas Americans in the test countries, the Census Bureau will employ three enumeration modes. The Census Bureau will develop a mailing list from persons responding to the ''Request for a Questionnaire'' (RFQ) form. These RFQ forms will be made available at embassies, consulates and organizations that serve overseas Americans, as well as the Internet. Using the United States Postal Service, the Census Bureau will mail a questionnaire to those respondents in the test countries using the mailing list created from the RFQ operation. The second enumeration mode entails the provision of questionnaires to U.S. citizens at embassies, consulates and organizations that serve overseas Americans. Lastly, the questionnaires also will be available on the Internet for respondents who wish to answer using a computer. The web site for the Internet responses will contain a questionnaire similar to the paper questionnaire. The Census Bureau will evaluate the effectiveness, response rate, and cost of each mode of enumeration.

The Census Bureau will launch a promotional campaign for the RFQ, consisting of different promotional materials to promote and motivate overseas Americans to answer the census. The promotional materials will be sent to the different test countries with instructions in the handling of these materials. Subsequently, the Census Bureau will use advertising materials (magazines and newspapers) to promote and motivate persons to answer the census. The Bureau will evaluate the effectiveness of the plan in reaching the U.S. citizens in the test countries, the cost, and which of the different strategies worked best.

The Census Bureau is designing a unique questionnaire for the overseas enumeration that will contain the same ''short form'' questions asked stateside for everyone in the household (*i.e.* name, relationship to others in the household, age, sex, race, and Hispanic origin). Additionally, for every person in the household, we are also asking for citizenship, stateside address, telephone number, social security number, passport number and the person's primary activity. The respondent completing the questionnaire for the household is also asked to provide the foreign address and telephone number for the household residence and to indicate the number of persons living in the residence as of April 1, 2004.

The RFQ form contains six questions to be completed by the head of household. The questions include respondent name, country in which currently residing, mailing address of current residence, social security number, U.S. passport number and number of persons residing at address. ''Census Day,'' the reference date for enumerating respondents, will be April 1, 2004.

On October 1, 2003 through December 31, 2003, overseas Americans may request questionnaires to be mailed to them. In February 2004, the Census Bureau will begin to mail the census test questionnaires to those who requested them. In March 2004, the questionnaires also will be available at the embassies, consulates, and the various organizations that serve overseas Americans. From March 2004 through July 2004, overseas Americans also may complete and submit their questionnaire via the Internet.

Responses from paper mail returns and the Internet will be data captured in order to analyze, among other things, the demographic characteristics of respondents and patterns of item nonresponse. The results of the test will help shape the data collection strategy for the next census.

III. Data

OMB Number: Not available.
Form Number(s): DO–1, DO–14.
Type of Review: Regular.
Affected Public: Individuals or households.

Estimated Number of Respondents: 450,000.

Estimated Time Per Response: 10 minutes.

Estimated Total Annual Burden Hours: 75,000 hours.

Estimated Total Annual Cost: We estimate the total cost to respondents for postage in mailing back their completed questionnaires to be $150,840. Respondents who reply via the internet will incur no cost.

Respondent Obligation: Mandatory.

Legal Authority: Title 13 of the United States Code, Sections 141 and 193.

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: April 15, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–9677 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Census Bureau

Survey of Residential Alterations and Repairs

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before June 20, 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(s) and instructions should be directed to Tamara Cole, U.S. Census Bureau, Room 2123, Building 4, Washington, DC 20233–1912, (301) 763–4665 (or via the Internet at *tamara.a.cole@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau is the preeminent collector and provider of timely, relevant, and quality data about the people and economy of the United States. Economic data are the Census Bureau's primary program commitment during nondecennial census years. The Census Bureau conducts surveys to estimate expenditures for residential improvement, including alterations and repairs. This segment of the economy amounted to more than $157 billion in 2001. Work done to rental or vacant residential properties is collected on the Survey of Residential Alterations and Repairs (SORAR) report form. The Consumer Expenditures Survey collects data for improvement and repairs to owner-occupied residential properties.

The Census Bureau publishes estimates from these two sources in the C50 Series, *Expenditures for Residential Improvements and Repairs.* These estimates are used by a variety of private businesses and trade associations for marketing studies, economic forecasts, and assessments of the remodeling and construction industries. They also help governments evaluate economic policy. For example, the Bureau of Economic Analysis uses these statistics to develop the structures component of gross private domestic investment in the national income and product accounts.

In an effort to make our data dissemination more timely, the survey will begin monthly data collection for the January 2004 survey month. Currently the survey is conducted quarterly. At the same time, to improve the scope of the survey, we will begin to collect expenditures for wall-to-wall carpeting and kitchen appliances. To reduce some of the respondent burden, we expect to decrease the number of improvement queries on the monthly form. For example, siding work done as an ''alteration'' and siding work done as a ''major replacement'' may be combined into one siding improvement category.

II. Method of Collection

The universe for this survey is the owners or designated representatives of the more than 40 million rental and vacant housing units in the United States. A sample of these owners, as identified in the Consumer Expenditure Survey, is mailed the SORAR–705 form. They are asked to report detailed alterations, improvement, and repair expenditures for their entire property.

When the survey begins monthly data collection, approximately 2,800 owners will be sampled each month. The sample design uses a rotation procedure which will bring one-twelfth of the sample (about 230 properties) into the survey each month and, conversely, take one-twelfth out each month. The data collected will continue to be adjusted for unreturned or unusable forms by region and metropolitan statistical area (MSA). The weights are adjusted so that sample counts of renter occupied and vacant housing units agree with independently derived controls from the Current Population Survey.

III. Data

OMB Number: 0607–0130.

Form Number: SORAR–705.

Type of Review: Regular Review.

Affected Public: Individuals or households, Businesses or Other for Profit, and State or Local Governments.

Estimated Number of Respondents: 2,800.

Estimated Time Per Response: .25 hours per month.

Estimated Total Annual Burden Hours: 8,400.

Estimated Total Annual Cost: The cost to the respondents is estimated to be $84,000.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, U.S.C. section 182.

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: April 15, 2003.

Madeleine Clayton,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–9678 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 19–2003]

Foreign-Trade Zone 82—Mobile, AL; Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board), by the City of Mobile, Alabama, grantee of Foreign-Trade Zone 82, requesting authority to expand its zone in Mobile, Alabama, within the Mobile Customs port of entry. The application was submitted pursuant to the provisions of 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 April 11, 2003.

FTZ 82 was approved on February 24, 1983 (Board Order 208, 48 FR 9052, 3/3/83) and expanded on February 27, 1990 (Board Order 464, 55 FR 8159, 3/7/90). The general-purpose zone currently consists of one site (1,035 acres) at the Brookley Complex and Brookley Airport in Mobile.

The applicant is now requesting authority for a major expansion of the zone as described below. The proposal requests authority to expand Site 1 to include additional areas and to include 12 additional sites along the Mobile Bay industrial corridor.

Existing Site1—Brookley Complex and Brookley Airport (1,035 acres)—expand to include an additional 908 acres within the entire 4,636-acre Mobile port and riverfront industrial complex (new total: 1,943 acres);

Proposed Site 2—3,169 acres within the 5,051-acre LeMoyne Industrial Park, located on US Highway 43 in North Mobile County;

Proposed Site 3—70 acres within the 289-acre Mobile River Industrial Park, located immediately adjacent to the U.S. Highway 43, City of Saraland;

Proposed Site 4—34 acres at the Frisco Industrial Park, located on Craft Highway, Cities of Mobile and Prichard;

Proposed Site 5—120 acres at the Wolf Ridge Industrial Park, located near the intersection of U.S. Highway 43 and Interstate 65, City of Prichard;

Proposed Site 6—300 acres at the Mobile Commerce Park, located on State Highway 193 in Mobile County;

Proposed Site 7—3,364 acres within the 5,458-acre Theodore Industrial Complex, located on the western shore of Mobile Bay;

Proposed Site 8—247 acres within the 673-acre Bayou la Batre Waterfront Complex, located within the city limits of Bayou la Batre;

Proposed Site 9—221 acres within the 357-acre Loxley Industrial Park, located near County Highway 49, City of Loxley;

Proposed Site 10—103 acres within the 108-acre Robertsdale Industrial Park, located just east of State Highway 59 and south of County Highway 54, Robertsdale;

Proposed Site 11—171 acres within the 616-acre Fairhope Industrial Complex, located immediately adjacent to U.S. Highway 98, Fairhope;

Proposed Site 12—106 acres within the 110-acre Gulf Shores Industrial Park, located immediately adjacent to the Jack Edwards Airport, City of Gulf Shores; and,

Proposed Site 13—27 acres within the 53-acre Foley-Gopher Hill Commerce Park, located on County Road 24, Foley.

No specific manufacturing requests are being made at this time. Such requests would be made to the Board on a case-by-case basis.

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 on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at one of the addresses below:

1. *Submissions via Express/Package Delivery Services:* Foreign-Trade Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th Street 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 Avenue NW., Washington, DC 20230.

The closing period for their receipt is June 20, 2003. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to July 7, 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 the first address listed above, and at the Office of the City Clerk, City of Mobile, 9th Floor, South Tower, Government Plaza, 205 Government Street, Mobile, AL 36602.

Dated: April 15, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03–9743 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 44–96]

Foreign-Trade Zone 202–Los Angeles, CA; Withdrawal of Application for Subzone Status for California Steel Industries, Inc.; Steel Mill Products Manufacturing Facilities in Fontana, CA

Notice is hereby given of the withdrawal of the application submitted by the Board of Harbor Commissioners of the City of Los Angeles, California, grantee of FTZ 202, requesting special-purpose subzone status for the manufacturing facilities (steel mill products) of California Steel Industries, Inc., in Fontana, California. The application was filed on May 24, 1996 (61 FR 14157, 6/6/96). The application has now been withdrawn by the applicant, and the case has been closed without prejudice.

Dated: April 10, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03–9742 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with March anniversary dates. In accordance with

the Department's regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2002), for administrative reviews of various antidumping and countervailing duty orders and findings with March anniversary dates.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than March 31, 2004.

	Period to be reviewed
Antidumping duty proceedings	
Germany: Stainless Steel Bar, A–428–830	8/2/01–2/28/03
BGH Edelstahl Freital GmbH/BGH, Edelstahl Lippendorf GmbH/BGH, Edelstahl Lugau GmbH/BGH, Edelstahl Siegen GmbH	
Italy: Stainless Steel Bar, A–475–829	8/2/01–2/28/03
Foroni S.p.A.	
Ugine-Savoie Imphy	
Thailand: Circular Welded Carbon Steel Pipes & Tubes A–549–502	3/1/02–2/28/03
Saha Thai Steel Pipe Company, Ltd.	
United Kingdom: Stainless Steel Bar, A–412–822	8/2/01–2/28/03
Corus Engineering Steels Limited	
Firth Rixson Special Steels Limited	
Countervailing Duty Proceedings	
Iran: In-Shell Raw Pistachios, C–507–501	1/1/02–12/31/02
Rafsanjan Pistachio Producers Cooperative	
Suspension Agreements	
None.	

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)), and 19 CFR 351.221(c)(1)(i).

Dated: April 16, 2003.

Thomas F. Futtner,

Acting Senior Office Director, Group II, Office 4, Import Administration.

[FR Doc. 03–9741 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588–824]

Preliminary Results of Anti-Circumvention Review of Antidumping Order: Corrosion-Resistant Carbon Steel Flat Products from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Preliminary Results of Anti-Circumvention Review of Antidumping Order: Corrosion-Resistant Carbon Steel Flat Products from Japan.

SUMMARY: As a result of our inquiry, we preliminarily determine that respondents' exports of boron-added corrosion-resistant carbon steel flat (''CRS'') products from Japan to the United States are not circumventing the antidumping duty order on corrosion-resistant carbon steel flat products from Japan.

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or James Doyle, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–3207 and(202) 482–0159, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 1998, petitioner USS-POSCO Industries (''UPI'') requested that the Department conduct an anti-circumvention inquiry pursuant to section 781(c) of the Tariff Act of 1930, as amended (''the Act'') to determine whether imports of boron-added CRS products, falling within the physical dimensions outlined in the scope of the order, are circumventing the antidumping duty order on corrosion-resistant carbon steel sheet from Japan. *See Antidumping Duty Orders; Certain Corrosion Resistant Carbon Steel Flat Products from Japan*, 58 FR 44163 (August 19, 1993). Specifically, petitioner alleges that Japanese exporters have been circumventing the order by exporting hot-dipped and electrolytically zinc coated sheet to which small amounts of boron (*e.g.*, 0.0020 and 0.0025 percent by weight based on laboratory tests of

two samples) have been added. Carbon steel sheet, as defined by the HTSUS, has a maximum boron content of less than 0.0008% by weight. If the boron content exceeds that level, the products enter the United States as a hot-dipped or electrolytic alloy rather than carbon steel sheet, and are thus not required to pay antidumping duties.

Petitioner argues that import statistics indicate that imports of hot-dipped and electrolytic alloy sheet to West Coast ports rose from 25,256 NT in 1996 to 50,478 NT for the first 6 months of 1998, while imports of the carbon sheet equivalent decreased from 16,013 NT in 1996 to 5,975 NT for the first six months of 1998.[1]

In addition, petitioner alleges that the addition of boron is generally immaterial (if not detrimental) to the performance characteristics of the merchandise, and that other than the addition of boron, the overall characteristics of the alloy vis-a-vis the carbon product are virtually identical. In fact, petitioner claims that, in some circumstances, the addition of boron could hamper the product's formability.[2]

On October 30, 1998, the Department initiated this anti-circumvention inquiry in response to petitioner's request. *See Notice of Initiation of Anti-circumvention Inquiry on Antidumping Duty Order: Corrosion-Resistant Carbon Steel Flat Products from Japan*, 63 FR 58364 (October 30, 1998). The Court of International Trade (''CIT'') enjoined the case by a temporary restraining order on October 30, 1998, which was lifted on October 18, 2000, following a decision by the U.S. Court of Appeals for the Federal Circuit (''CAFC''). On December 4, 2000, the Department sent a first round of questionnaires to Nippon Steel Corporation (''NSC''), NKK Steel Corporation (''NKK''), Nisshin Steel Company Limited (''Nisshin''), Kobe Steel Company Limited (''Kobe''), Sumitomo Steel Corporation (''Sumitomo''), and Kawasaki Steel Corporation (''Kawasaki''). Nisshin did not respond to any of the Department's communications. A supplemental questionnaire was issued on February 6, 2001, after which Kawasaki and Sumitomo informed the Department by letter on February 22 and 20, 2001, respectively, that they would not be participating in this inquiry. The remaining three companies submitted their supplemental responses on February 27, 2001. The Department issued a second supplemental to NSC and NKK on March 13 and March 15, 2001, respectively. In addition, the Department sent questionnaires to two of NSC's trading companies and to one of NKK's traders. Department officials conducted verifications of NKK, one of its traders and NSC from April 23 through April 27, 2001. On August 8, 2001, the Department issued a third supplemental to NSC and NKK and a second supplemental to Kobe. On February 19, 2003, the Department issued a fourth supplemental questionnaire to NSC and NKK.

Scope of the Order

The scope of this order is as follows: the products covered by the antidumping duty order include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTSUS under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in this order are corrosion-resistant flat-rolled products of non-rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') for example, products which have been beveled or rounded at the edges.

Excluded from this order are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating.

Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness.

Also excluded from this order are certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

Also excluded from this order are certain corrosion-resistant carbon steel flat products meeting the following specifications: (1) widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of chromate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of chromate, and finally a layer consisting of silicate.

Also excluded from this order are carbon steel flat products measuring 1.84 millimeters in thickness and 43.6 millimeters or 16.1 millimeters in width consisting of carbon steel coil (SAE 1008) clad with an aluminum alloy that is balance aluminum, 20% tin, 1% copper, 0.3% silicon, 0.15% nickel, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Also excluded from this order are carbon steel flat products measuring 0.97 millimeters in thickness and 20 millimeters in width consisting of carbon steel coil (SAE 1008) with a two-layer lining, the first layer consisting of a copper-lead alloy powder that is balance copper, 9% to 11% tin, 9% to 11% lead, less than 1% zinc, less than

[1] The HTS does not provide a separate designation for boron-added CRS products. As a result, UPI has relied on the broader ''alloy'' category designated by the relevant HTS numbers, as these are the HTS numbers under which boron-added CRS products would properly be entered.

[2] *Formability*: the relative ease with which a metal can be shaped through plastic deformation. *Plastic deformation*: deformation that does or will remain permanent after removal of the load that caused it. *Metals Handbook*, 1985, edited by Howard E. Boyer and Timothy L. Gall.

1% other materials and meeting the requirements of SAE standard 792 for Bearing and Bushing Alloys, the second layer consisting of 45% to 55% lead, 38% to 50% PTFE, 3% to 5% molybdenum disulfide and less than 2% other materials.

Also excluded from this order are doctor blades meeting the following specifications: carbon steel coil or strip, plated with nickel phosphorous, having a thickness of 0.1524 millimeters (0.006 inches), a width between 31.75 millimeters (1.25 inches) and 50.80 millimeters (2.00 inches), a core hardness between 580 to 630 HV, a surface hardness between 900 - 990 HV; the carbon steel coil or strip consists of the following elements identified in percentage by weight: 0.90% to 1.05% carbon; 0.15% to 0.35% silicon; 0.30% to 0.50% manganese; less than or equal to 0.03% of phosphorous; less than or equal to 0.006% of sulfur; other elements representing 0.24%; and the remainder of iron.

Also excluded from this order are products meeting the following specifications: carbon steel flat products measuring 1.64 millimeters in thickness and 19.5 millimeters in width consisting of carbon steel coil (SAE 1008) with a lining clad with an aluminum alloy that is balance aluminum; 10 to 15% tin; 1 to 3% lead; 0.7 to 1.3% copper; 1.8 to 3.5% silicon; 0.1 to 0.7% chromium, less than 1% other materials and meeting the requirements of SAE standard 783 for Bearing and Bushing Alloys.

Also, excluded from this order are products meeting the following specifications: carbon steel coil or strip, measuring 1.93 millimeters or 2.75 millimeters (0.076 inches or 0.108 inches) in thickness, 87.3 millimeters or 99 millimeters (3.437 inches or 3.900 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 0.3% antimony, 2.5% silicon, 1% maximum total other (including iron), and remainder aluminum.

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, clad with aluminum, measuring 1.75 millimeters (0.069 inches) in thickness, 89 millimeters or 94 millimeters (3.500 inches or 3.700 inches) in width, with a low carbon steel back comprised of: carbon under 8%, manganese under 0.4%, phosphorous under 0.04%, and sulfur under 0.05%; clad with aluminum alloy comprised of: 0.7% copper, 12% tin, 1.7% lead, 2.5% silicon, 0.3% antimony, 1% maximum total other (including iron), and remainder aluminum.

Also excluded from this order are products meeting the following specifications: carbon steel coil or strip, measuring a minimum of and including 1.10mm to a maximum of and including 4.90mm in overall thickness, a minimum of and including 76.00mm to a maximum of and including 250.00mm in overall width, with a low carbon steel back comprised of: carbon under 0.10%, manganese under 0.40%, phosphorous under 0.04%, sulfur under 0.05%, and silicon under 0.05%; clad with aluminum alloy comprised of: under 2.51% copper, under 15.10% tin, and remainder aluminum as listed on the mill specification sheet.

Also excluded from this order are products meeting the following specifications: (1) diffusion annealed, non-alloy nickel-plated carbon products, with a substrate of cold-rolled battery grade sheet (''CRBG'') with both sides of the CRBG initially electrolytically plated with pure, unalloyed nickel and subsequently annealed to create a diffusion between the nickel and iron substrate, with the nickel plated coating having a thickness of 0–5 microns per side with one side equaling at least 2 microns; and with the nickel carbon sheet having a thickness of from 0.004'' (0.10mm) to 0.030'' (0.762mm) and conforming to the following chemical specifications (%): C ≤ 0.08; Mn ≤ 0.45; P ≤ 0.02; S ≤ 0.02; Al ≤ 0.15; and Si ≤ 0.10; and the following physical specifications: Tensile = 65 KSI maximum; Yield = 32 - 55 KSI; Elongation = 18% minimum (aim 34%); Hardness = 85 - 150 Vickers; Grain Type = Equiaxed or Pancake; Grain Size (ASTM) = 7–12; Delta r value = aim less than +/- 0.2; Lankford value = ≥ 1.2.; and (2) next generation diffusion-annealed nickel plate meeting the following specifications: (a) nickel-graphite plated, diffusion annealed, tin-nickel plated carbon products, with a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed tin-nickel plated carbon steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel-tin alloy is created, and an additional layer of mixture of natural nickel and graphite then electrolytically plated on the top side of the strip of the nickel-tin alloy; having a coating thickness: top side: nickel-graphite, tin-nickel layer ≥ 1.0 micrometers; tin layer only ≥ 0.05 micrometers, nickel-graphite layer only > 0.2 micrometers, and bottom side: nickel layer ≥ 1.0 micrometers; (b) nickel-graphite, diffusion annealed, nickel plated carbon products, having a natural composition mixture of nickel and graphite electrolytically plated to the top side of diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; with both sides of the cold rolled base metal initially electrolytically plated with natural nickel, and the material then annealed to create a diffusion between the nickel and the iron substrate; with an additional layer of natural nickel-graphite then electrolytically plated on the top side of the strip of the nickel plated steel strip; with the nickel-graphite, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having a coating thickness: top side: nickel-graphite, tin-nickel layer ≥ 1.0 micrometers; nickel-graphite layer ≥ 0.5 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; (c) diffusion annealed nickel-graphite plated products, which are cold-rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; having the bottom side of the base metal first electrolytically plated with natural nickel, and the top side of the strip then plated with a nickel-graphite composition; with the strip then annealed to create a diffusion of the nickel-graphite and the iron substrate on the bottom side; with the nickel-graphite and nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling, or any other evidence of separation; having coating thickness: top side: nickel-graphite layer ≥ 1.0 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; (d) nickel-phosphorous plated diffusion annealed nickel plated carbon product, having a natural composition mixture of nickel and phosphorus electrolytically plated to the top side of a diffusion annealed nickel plated steel strip with a cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the base metal initially electrolytically plated with natural nickel, and the material then annealed

to create a diffusion of the nickel and iron substrate; another layer of the natural nickel-phosphorous then electrolytically plated on the top side of the nickel plated steel strip; with the nickel-phosphorous, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having a coating thickness: top side: nickel-phosphorous, nickel layer ≥ 1.0 micrometers; nickel-phosphorous layer ≥ 0.1 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; (e) diffusion annealed, tin-nickel plated products, electrolytically plated with natural nickel to the top side of a diffusion annealed tin-nickel plated cold rolled or tin mill black plate base metal conforming to the chemical requirements based on AISI 1006; with both sides of the cold rolled strip initially electrolytically plated with natural nickel, with the top side of the nickel plated strip electrolytically plated with tin and then annealed to create a diffusion between the nickel and tin layers in which a nickel-tin alloy is created, and an additional layer of natural nickel then electrolytically plated on the top side of the strip of the nickel-tin alloy; sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having coating thickness: top side: nickel-tin-nickel combination layer ≥ 1.0 micrometers; tin layer only ≥ 0.05 micrometers; bottom side: nickel layer ≥ 1.0 micrometers; and (f) tin mill products for battery containers, tin and nickel plated on a cold rolled or tin mill black plate base metal conforming to chemical requirements based on AISI 1006; having both sides of the cold rolled substrate electrolytically plated with natural nickel; then annealed to create a diffusion of the nickel and iron substrate; then an additional layer of natural tin electrolytically plated on the top side; and again annealed to create a diffusion of the tin and nickel alloys; with the tin-nickel, nickel plated material sufficiently ductile and adherent to the substrate to permit forming without cracking, flaking, peeling or any other evidence of separation; having a coating thickness: top side: nickel-tin layer ≥ 1 micrometer; tin layer alone ≥ 0.05 micrometers; bottom side: nickel layer ≥ 1.0 micrometer.

Also excluded from this order are products meeting the following specifications: (1) widths ranging from 10 millimeters (0.394 inches) through 100 millimeters (3.94 inches); (2) thicknesses, including coatings, ranging from 0.11 millimeters (0.004 inches) through 0.60 millimeters (0.024 inches); and (3) a coating that is from 0.003 millimeters (0.00012 inches) through 0.005 millimeters (0.000196 inches) in thickness and that is comprised of either two evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum, followed by a layer consisting of phosphate, or three evenly applied layers, the first layer consisting of 99% zinc, 0.5% cobalt, and 0.5% molybdenum followed by a layer consisting of phosphate, and finally a layer consisting of silicate.

ANALYSIS

In anti-circumvention cases we have historically analyzed several matters in determining if circumvention of the order is taking place. As part of our analysis, we look to the claims made in the circumvention inquiry request, and if during the review we find that those claims are not supported by the information on the record, then the existence of circumvention is called into question.

In the *Preliminary Determination of Circumvention of Antidumping Order; Cut-to-Length Carbon Steel Plate from Canada*, the Department found that the order was being circumvented through the addition of boron. *See Preliminary Determination of Circumvention of Antidumping Order; Cut-to-Length Carbon Steel Plate from Canada* 65 FR 64926 (October 31, 2000) (''*Canadian Plate*''). Although this current anti-circumvention review also involves the addition of boron to merchandise which is subject to the order, each anti-circumvention review is highly dependent on the facts on the record, and must be analyzed in light of those specific facts. As we did in *Canadian Plate*, in this case we looked at the circumstances surrounding the products allegedly circumventing the order, including the timing of those entries during the review period and the total quantity of the merchandise entering the United States in determining whether the claims made in the circumvention inquiry request are correct. *See Canadian Plate*, 65 FR at 64930. In addition, in the case of an allegation of a ''minor alteration'' claim under 781(c) of the Act, it is the Department's practice to look to five specific factors (*see* the *Minor Alterations Factors* section below) to determine if circumvention exists in a particular case. *See Brass Sheet and Strip from Germany; Negative Preliminary Determination of Circumvention of Antidumping Duty Order*, (''Brass Sheet'') 55 FR 32655, 32657 (August 10, 1990) and *Electrical Conductor Aluminum Redraw Rod from Venezuela; Final Affirmative Scope Ruling*, (''*Electrical Conductor*'') 56 FR 42310, 42310 (August 27, 1991). After reviewing the allegations made in the circumvention inquiry request, the ''minor alteration'' factors and the information on the record, the Department has preliminarily determined that no circumvention of the order exists in this case.

Allegations in the Circumvention Inquiry Request

Petitioner made several allegations in its request regarding the subject merchandise and the respondents' conduct. Petitioner alleged that the Japanese manufacturers of CRS added the allegedly ''immaterial'' element, boron, to their product for the sole purpose of circumventing the antidumping duty order. *See* Petitioner's Circumvention Inquiry Request dated September 11, 1998 (''Request'') at page 7. Petitioner also claimed there were no metallurgical reasons for adding boron to CRS. *See* Request at page 10. Furthermore, petitioner alleged that imports into the United States of CRS to which boron had been added increased rapidly and substantially since the publication of the order. *See* Request at page 4.

During the course of the review, the Department found that there are commercially and metallurgically viable reasons for the addition of boron in the context of the Continuous Annealing Process (''CAP''). In the production of CRS, there are essentially two types of annealing processes - batch annealing and the CAP. For the CRS producers which use the CAP, the addition of boron is not ''immaterial'' to the performance characteristics of the final product. This contrasts with our findings in *Canadian Plate*, in which the parties did not use the CAP or claim any benefit from the addition of boron with respect to the annealing process. Moreover, at verification the Department found nothing on the record inconsistent with a respondent's statement that the addition of boron helps the product be ''more consistent'' throughout the length and width of the coil, and also results in a more formable product, when used specifically in the CAP. *See* NSC's Verification Report at page 4. As such, the Department found commercially and metallurgically viable reasons for the addition of boron to CRS.

Furthermore, the Department found that there were imports to the United States of boron-added CRS at the time the scope of the order was drafted and published by the Department. Also, the

Department found that the decision by some respondents for using the CAP and adding boron to that process was made in the 1970s and the 1980s due to the CAP's shorter processing time. In addition, the Department found that, while other respondents determined that the addition of boron was beneficial following the publication of the order, such determinations were based upon scientific research and development. All of the respondents' research and development information which we reviewed showed that the addition of boron assisted the CAP, and therefore may have led to a more efficient production process. *See*, *e.g.*, Exhibit 9 of NSC's Verification Report dated June 7, 2001.

Petitioner also alleged, using data available to them through 1998, that the amount of CRS to which boron was added increased between 1996 and June 1998. Petitioner projected that this rapid increase in alloy imports would continue into the foreseeable future. *See* Request at page 4. In order to evaluate petitioner's allegation, we analyzed a broader historical view of the trade pattern and found that the increase of CRS boron-added imports was temporary. Additionally, data on the record shows that there was also an increase during the same time period for sales in the home market and third country markets, which suggests that the increase alleged by petitioner was unrelated to the existence of the CRS Order. The information on the record also reflects that currently only very small amounts of CRS boron-added imports are entering the Unites States from the two largest exporters of boron-added CRS. *See* February 26, 2003, submission from NSC and NKK. The information on the record demonstrates that when viewed over the relevant time period, increases in CRS boron-added imports are not consistent with petitioner's allegation that circumvention of the order is taking place.

The Minor Alterations Factors

The Department's standard practice in analyzing a claim of the existence of circumvention under section 781(c) of the Act is to review the following factors to determine if an article has been altered in form or appearance in minor respects so as to result in circumvention of the order: 1) overall physical characteristics; 2) expectations of the ultimate users; 3) use of the merchandise; 4) channels of marketing; and 5) cost of modification. *See Brass Sheet*, 55 FR 32657, *Electrical Conductor*, 56 FR 42310, and *Canadian Plate*, 65 FR 64926. In this case, we applied the factors and found that, for companies that use the CAP, the addition of boron is not a minor alteration.

During the course of this inquiry the Department found that there are commercially and metallurgically viable reasons for the addition of boron when used in the CAP. The information on the record demonstrates that boron is beneficial to the overall physical characteristics of the final product. Additionally, the boron-added material performed better than the non-boron added CRS and was better able to meet specific expectations of the ultimate user. Although the cost of adding boron was not ''in and of itself'' significant, when taken into consideration with the research and development costs these companies expended to determine the benefits of adding boron to the CAP, the overall cost was significant. Finally, for the factor ''channels of marketing,'' we believe the boron-added products move in the same general channel as the subject merchandise of the order, however that has been the case since the inception of the CAP as boron was introduced to the product through the development of the CAP methodology. In this case, showing the same channels of marketing were used does not support a finding of circumvention. Also, the information on the record, including trade statistics, shows that the trade flow of these products was not altered by the order, as discussed above. Thus, taking all of these factors together, the Department has determined that there was no circumvention of the order by the companies reviewed in this case.

THE DEPARTMENT'S PRELIMINARY DECISION

As shown by the analysis above, there are several factors that the Department may review to determine if an alteration is ''minor'', and therefore if circumvention exists. Notably, in every anti-circumvention case the Department investigates, the facts are different and some factors may appear to support a finding that an alteration is ''minor,'' while others may not. Because anti-circumvention cases are extremely fact-specific, the Federal Circuit noted in this case that this inquiry would ''probably involve subtle distinctions and difficult economic issues relating to the nature of, the reason for and the effect of the changes NSC Steel made in its steel products.'' *Nippon Steel Corporation, NKK, et al. v. United States*, 219 F.3d 1348, 1354 (July 26, 2000).

In this case, the Department initiated the minor alteration inquiry based on information available to, and provided by, the petitioner at that time it filed its Request. After development of the record and consideration of all the information on the record, we preliminarily determine that many of the allegations made in the Request are not supported by the record. We have made this determination based on reviewing the information on the record regarding NSC, NKK, and Kobe, and also on the verification of NSC and NKK. NSC and NKK are the two largest exporters of this merchandise, use the CAP, and provided scientific, commercial, and historical explanations for the addition of boron to the CRS.

The vast majority of merchandise which the Department reviewed in this case was boron-added CRS which was used in conjunction with the CAP. Kobe did not report to the Department exporting boron- added merchandise which had gone though the CAP. However, it did report a limited number of sales to one customer of batch annealed, boron-added CRS. Kobe's sales were limited in number and also did not reflect the surge alleged in the Request. Accordingly, we did not find circumvention with respect to any of the merchandise reviewed in this case. To the extent that the other Japanese producers of CRS have added boron to CRS, exclusive of the CAP, we have no evidence of such usage on the record.

Additionally, after reviewing the data provided by five of the six respondents, we conclude that the universe of boron-added CRS from Japan has been fully reported. With respect to the volumes provided by petitioner in filing its request, the total reported data from all the responding companies exceeds the import volumes of the merchandise which petitioner identified in its request as problematic for 1996[3] and 1998 and virtually all of these imports of boron-added CRS to the United States were produced by NSC and NKK, which were verified by the Department. Therefore, there is little likelihood of any significant volumes of relevant imports existing which have not been reported by other companies. Thus, for purposes of this review we have found no circumvention of CRS from Japan.

PRELIMINARY DETERMINATION

As a result of our inquiry, we have preliminarily determined that exports of boron-added corrosion-resistant carbon steel flat products from Japan are not circumventing the antidumping duty

[3] The volume reported by respondents for 1997 exceeded the amount the petitioner reported in its Request for that year. Petitioner's data for 1998 was only though June 1998, however when doubling that data, NKK and NSC combined imports still exceeded petitioner's estimate.

order on corrosion-resistant carbon steel flat products from Japan.

The evidence on the record of this inquiry, taken as a whole, leads to our preliminary determination that the United States imports of boron-added corrosion-resistant carbon steel flat products from the respondents were not minor alterations of the subject merchandise, within the meaning of section 781(c) of the Act. Pursuant to the Department's analysis, we believe these boron-added products have commercially and metallurgically viable reasons for the addition of boron.

Public Comment

Interested parties are invited to comment on these preliminary results. Parties who submit argument in this proceeding are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Parties to the proceedings may request a hearing within 14 days of publication. Any hearing, if requested, will be held no later than two days after the deadline for the submission of rebuttal briefs, or the first workday thereafter. Case briefs may be submitted by interested parties not later than 14 days after the date of publication of this notice. Pursuant to 19 CFR 351.309(d)(1), rebuttal briefs and rebuttals to written comments, limited to the issues raised in those comments, may be filed not later than five days after the deadline for submission of case briefs. All written comments shall be submitted in accordance with 19 C.F.R. 351.303 and shall be served on all interested parties on the Department's service list in accordance with 19 C.F.R. 351.303. Persons interested in attending the hearing should contact the Department for the date and time of the hearing.

This determination is issued and published in accordance with section 781(c) of the Act and section 351.225(i) of the Department's regulations.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–9734 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570–848]

Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: On October 16, 2002, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on freshwater crawfish tail meat from the People's Republic of China (PRC). *See Freshwater Crawfish Tail Meat from the People's Republic of China: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 67 FR 63877 (October 16, 2002) (*Preliminary Results*). The administrative review covers the period September 1, 2000, through August 31, 2001.

Based on our analysis of the comments received, we have made changes to our analysis. Therefore, the final results differ from the *Preliminary Results*. The final weighted-average dumping margins for the reviewed firms are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Elfi Blum or Doug Campau, Office of Antidumping/Countervailing Duty Enforcement VII, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–0197 or (202) 482–1395, respectively.

SUPPLEMENTARY INFORMATION:

Background

On October 16, 2002, the Department published the preliminary results of its administrative review of the antidumping duty order on freshwater crawfish tail meat from the PRC. *See Preliminary Results*. The administrative review covers the period September 1, 2000, through August 31, 2001. The review covers the following companies: China Kingdom Import & Export Co., Ltd. (China Kingdom); Fujian Pelagic Fishery Group Co. (Fujian Pelagic); Qingdao Rirong Foodstuff Co., Ltd., aka Qingdao Rirong Foodstuffs (Qingdao Rirong); Qingdao Zhengri Seafood Co., Ltd./Yancheng Yaou Seafood Co., Ltd. (Qingdao Zhengri/Yancheng Yaou); Shantou SEZ Yangfeng Marine Products Co. (Shantou SEZ); Suqian Foreign Trade Corp., aka Suqian Foreign Trading (Suqian Foreign Trade); Yancheng Foreign Trade Corp., aka Yancheng Foreign Trading, aka Yang Cheng Foreign Trading (Yancheng Foreign Trade); and Yangzhou Lakebest Foods Co., Ltd. (Yangzhou Lakebest).

Since the publication of the *Preliminary Results*, the following events have occurred. Based on new information obtained by the Department through public sources, the Department issued an additional supplemental questionnaire to Qingdao Rirong on October 24, 2002. Qingdao Rirong responded to the Department's questionnaire on November 4, 2002. On November 15, 2002, we received timely filed case briefs from the Crawfish Processors Alliance, its members (together with the Louisiana Department of Agriculture and Forestry, Bob Odom, Commissioner), and the Domestic Parties (collectively, the Domestic Interested Parties); and China Kingdom and Qingdao Zhengri/Yancheng Yaou, and on November 20, 2002, we received timely filed rebuttal briefs from the Domestic Interested Parties with respect to China Kingdom and Qingdao Zhengri/Yancheng Yaou, and from Qingdao Rirong. On December 31, 2002, the Department released to the interested parties for comment the *Memorandum from Elfi Blum and Scot Fullerton, Case Analysts, through Maureen Flannery, Program Manager, Office of AD/CVD Enforcement VII, to Barbara Tillman, Director, Office of AD/CVD Enforcement VII: Freshwater Crawfish Tail Meat from the People's Republic of China for the period of September 1, 2000, through August 31, 2001 (A-570–848): Analysis of Relationship between Qingdao Rirong Foodstuff Co., Ltd., and Y&Z International Trade Inc.*, dated December 31, 2002 (*Affiliation Memo*). We received comments on the & from Qingdao Rirong on January 14, 2003 and, after approving an extension for rebuttal comments, we received rebuttal comments from the Domestic Interested Parties on January 27, 2003.

On February 7, 2003, the Department extended the time limit for the completion of these final results to April 14, 2003. *See Freshwater Crawfish Tail Meat from the People's Republic of China: Extension of Time Limit for Final Results of Administrative Antidumping Review*, 68 FR 7345 (February 13, 2002). The Department has now completed this review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Due to issues concerning the proprietary treatment of information

placed on the record of this review by the Department and in response to that information submitted by Qingdao Rirong, and concerning new factual information submitted in the Domestic Interested Parties' case brief, the Department requested the Domestic Interested Parties to re-file their case brief with respect to Qingdao Rirong, and Qingdao Rirong to re-file its rebuttal brief. In addition, the Department requested that both parties re-file their comments to the *Affiliation Memo*. Further, due to issues concerning new factual information submitted in China Kingdom's case brief, the Department requested China Kingdom to re-file its case brief. Final corrected versions of the case briefs from the Domestic Interested Parties with respect to Qingdao Rirong, and from China Kingdom were received on April 10, 2003 and February 20, 2003, respectively. A final corrected version of Qingdao Rirong's rebuttal brief was filed on April 10, 2003. A final corrected version of the comments to the Affiliation Memo from Domestic Interested Parties was received on April 10, 2003, and amendments to Qingdao Rirong's comments were received on January 24 and February 3, 2003.

Scope of the Antidumping Duty Order

The product covered by the antidumping duty order is freshwater crawfish tail meat, in all its forms (whether washed or with fat on, whether purged or unpurged), grades, and sizes; whether frozen, fresh, or chilled; and regardless of how it is packed, preserved, or prepared. Excluded from the scope of the order are live crawfish and other whole crawfish, whether boiled, frozen, fresh, or chilled. Also excluded are saltwater crawfish of any type, and parts thereof. Freshwater crawfish tail meat is currently classifiable in the Harmonized Tariff Schedule of the United States (HTS) under item numbers 1605.40.10.10, 1605.40.10.90, 0306.19.00.10 and 0306.29.00.00. The HTS subheadings are provided for convenience and Customs purposes only. The written description of the scope of this order is dispositive.

Duty Absorption

On November 26, 2001, the Crawfish Processors Alliance timely requested that the Department determine whether antidumping duties had been absorbed during the period of review (POR), in accordance with section 751(a)(4) of the Act, and section 351.213(j)(1) of the Department's regulations. Section 751(a)(4) of the Act provides that, upon request during an administrative review initiated two or four years after the publication of the order, the Department must determine whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Because this review was initiated four years after the publication of the antidumping duty order, and a duty absorption determination was requested by the Crawfish Processors Alliance, we analyzed duty absorption in this segment of the proceeding.

On January 10, 2003, the Department requested the remaining eight companies subject to this review to place on the record evidence that unaffiliated purchasers will ultimately pay the antidumping duties to be assessed on entries during the review period. On January 21, 2003, six of these eight companies responded: Suqian Foreign Trade, Yangzhou Lakebest, Qingdao Zhengri/Yancheng Yaou, Qingdao Rirong, Fujian Pelagic, and China Kingdom. Suqian Foreign Trade, Yangzhou Lakebest, Qingdao Zhengri/Yancheng Yaou and Qingdao Rirong stated that they were not affiliated with their importer of record during the POR and thus had reported export price (EP) sales. Suqian Foreign Trade and Yangzhou Lakebest responded to the Department's initial questionnaire, but then failed to respond to the Department's supplemental questionnaires. Therefore, we are applying adverse facts available (AFA) to these two companies, as discussed in greater detail below in the ''Application of Facts Available'' section. Qingdao Zhengri/Yancheng Yaou refused to participate in the verification of Qingdao Zhengri, and we applied AFA to the combined entity. See ''Application of Facts Available'' section below. We have determined that Qingdao Rirong sold to the United States through an importer that is affiliated within the meaning of section 771(33) of the Act, and have applied AFA to Qingdao Rirong. *See Memorandum from Doug Campau to Barbara E. Tillman, Freshwater Crawfish Tail Meat from the People's Republic of China (PRC): Treatment of Qingdao Rirong Foodstuff Co., Ltd. in the Final Results of the Administrative Review for the Period 9/1/00 - 8/31/01*, dated April 9, 2003 (*Qingdao Rirong Memo*).

Two companies, China Kingdom and Fujian Pelagic, stated that they were affiliated with their importer of record during the POR. One of these companies, China Kingdom, reported constructed export price (CEP) sales in its response to the Department. Because China Kingdom failed to provide total production and factors of production for the relevant POR, we are applying AFA to the company, as discussed below in the ''Application of Facts Available'' section. Fujian Pelagic did not respond to any other of the Department's requests for information besides the duty absorption inquiry; we therefore are applying AFA to Fujian Pelagic, as discussed below in the ''Application of Facts Available'' section. On January 22, 2003, one company, Yancheng Foreign Trade, which did not respond at all in this proceeding except to the Department's duty absorption inquiry, stated that it had no shipments. For one company, Shantou SEZ, the Department's request was undeliverable. Yancheng Foreign Trade and Shantou SEZ did not respond to the Department's questionnaires during the POR, and we are applying AFA to both companies, as discussed below in the ''Application of Facts Available'' section.

None of these companies provided any evidence, nor is there any other evidence on the record, that the unaffiliated purchasers of subject merchandise will ultimately pay the antidumping duties. We are applying AFA to all companies, as explained in the ''Application of Facts Available'' section below. Accordingly, based on the record, we cannot conclude that the unaffiliated purchaser in the United States will ultimately pay the assessed duty. Therefore, with respect to Qingdao Rirong, China Kingdom, and all exporters that are part of the PRC entity, we conclude that antidumping duties have been absorbed by the producer or exporter during the POR.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the *Issues and Decision Memorandum from Barbara E. Tillman, Acting Deputy Assistant Secretary for Import Administration, Group III, to Joseph A. Spetrini, Acting Assistant Secretary for Import Administration: Issues and Decision Memorandum for the Final Results of the Antidumping Duty Administrative Review of Freshwater Crawfish Tail Meat from the People's Republic of China: September 1, 2000 through August 31, 2001*, dated April 14, 2003 (*Decision Memo*), which is hereby adopted by this notice.

A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memo*, is attached to this notice as an appendix. Parties can find a complete discussion of all issues raised in this

review and the corresponding recommendations in this public memorandum, which is on file in the Central Records Unit, room B-099 of the main Commerce Building. In addition, a complete version of the *Decision Memo* can be accessed directly on the Web at http://ia.ita.doc.gov. The paper copy and electronic version of the *Decision Memo* are identical in content.

Changes Since the Preliminary Results

Based on our analysis of information obtained after the *Preliminary Results* from public sources and memorialized in the *Affiliation Memo*, comments thereon, information received from interested parties, and briefs and rebuttal briefs submitted by interested parties in response to the *Preliminary Results*, we have changed the margin for Qingdao Rirong. For these final results, we are basing the margin for Qingdao Rirong on AFA. For a discussion of this issue, refer to the *Qingdao Rirong* section under *Application of Facts Available*, below.

Application of Facts Available

• Fujian Pelagic, Shantou SEZ, Suqian Foreign Trade, Yancheng Foreign Trade, and Yangzhou Lakebest

The Department received no comments on its preliminary determination to apply facts available to Fujian Pelagic, Shantou SEZ, Suqian Foreign Trade, Yancheng Foreign Trade, and Yangzhou Lakebest. Therefore, we have not altered our decision to apply total AFA to these companies for these final results, in accordance with sections 776(a)(2)(A) and (B), as well as section 776(b) of the Act. For a complete discussion of the Department's decision to apply total AFA, *see Preliminary Results*. Furthermore, Fujian Pelagic, Shantou SEZ, Suqian Foreign Trade, Yancheng Foreign Trade, and Yangzhou Lakebest did not establish that they are eligible for separate rates. As AFA, the Department is assigning these companies the PRC-wide rate of 223.01 percent the highest rate determined in any segment of this proceeding. *See Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002). As discussed below, this rate has been corroborated.

• China Kingdom

In the *Preliminary Results*, we applied facts available to China Kingdom pursuant to sections 776(a)(2)(A) and (B) of the Act because it failed to provide total production and factors of production for the relevant POR in a timely manner. Furthermore, we used an adverse inference and applied AFA pursuant to section 776(b) of the Act because we determined that China Kingdom did not act to the best of its ability to comply with the Department's request for information and demonstrated a pattern of non-compliance by reporting figures for total tail meat production and eight factors of production for the wrong production period in *all* of its responses to the Department's questionnaires. For further details, see the *Memorandum to Joseph A. Spetrini: Freshwater Crawfish Tail Meat from the People's Republic of China (PRC): Application of Total Adverse Facts Available for China Kingdom Import & Export Co., Ltd. in the Preliminary Results of the Administrative Review for the Period 9/1/00 - 8/31/01* (September 30, 2002) (*China Kingdom AFA Memo*). However, China Kingdom received a separate rate in the *Preliminary Results*, and this determination remains unchanged for these final results. After analyzing the comments received, we continue to find that the use of AFA is warranted for exports of subject merchandise to the United States by China Kingdom in these final results. For a complete discussion, see the *Decision Memo*, at Comment 7. As adverse facts available, the Department is assigning China Kingdom the rate of 223.01 percent the highest rate determined in any segment of this proceeding. As discussed further below, this rate has been corroborated.

• Qingdao Zhengri/Yancheng Yaou

In the *Preliminary Results*, we applied facts available to Qingdao Zhengri/Yancheng Yaou pursuant to section 776(a)(2)(D) of the Act because this entity refused to participate fully in verification. Furthermore, we applied AFA pursuant to section 776(b) of the Act because we determined that Qingdao Zhengri/Yancheng Yaou did not act to the best of its ability to comply with the Department's request to verify, because of contradictory responses submitted to the Department, and because it provided certifications that the Department determined to be inaccurate. For further details, see the *Memorandum from Jacqueline Arrowsmith to Joseph A. Spetrini: Freshwater Crawfish Tail Meat from the People's Republic of China (PRC): Application of Total Adverse Facts Available for Qingdao Zhengri Seafood Co., Ltd. and Yancheng Yaou Seafood Co., Ltd. in the Preliminary Results of the Administrative Review for the Period September 1, 2000 through August 31, 2001*, dated September 23, 2002. After analyzing the comments received, we continue to apply AFA to Qingdao Zhengri/Yancheng Yaou in these final results. For details, see the *Decision Memo* at Comment 6. Furthermore, because the respondent refused to participate fully in verification, the Department did not have an opportunity to verify separate rate information submitted by Qingdao Zhengri/Yancheng Yaou. Consequently, Qingdao Zhengri/Yancheng Yaou is not entitled to a separate rate in these final results. As adverse facts available, the Department is assigning Qingdao Zhengri/Yancheng Yaou the rate of 223.01 percent the highest rate determined in any segment of this proceeding. As discussed further below, this rate has been corroborated.

• Qingdao Rirong

As discussed in detail in the *Qingdao Rirong Memo*, we determine that, in accordance with section 776(a)(2)(A), the use of facts otherwise available is warranted in reaching these final results. Furthermore, in accordance with section 776(b) of the Act, and for the reasons discussed below, the Department is applying an inference that is adverse to the interests of Qingdao Rirong in selecting from among the facts otherwise available.

Throughout the course of this administrative review, Qingdao Rirong reported that it made U.S. sales, on an EP basis, to an unaffiliated U.S. importer. In the *Preliminary Results*, the Department treated all of Qingdao Rirong's U.S. sales as EP sales.

Subsequent to the publication of its *Preliminary Results*, the Department continued to examine the issue of a possible relationship between Qingdao Rirong and its importer. Through research into public records, the Department found previously unreported information concerning the relationship between Qingdao Rirong and Y&Z. Much of this information conflicted with information previously reported to the Department by Qingdao Rirong. This prompted the Department to issue another supplemental questionnaire to Qingdao Rirong on October 24, 2002, and to perform further research on its own. After an analysis of all information on the record concerning the relationship between Qingdao Rirong and Y&Z, the Department determined that, at least through December 16, 2002, Qingdao Rirong was affiliated with its importer, under section 771(33) of the Act. *See Affiliation Memo*. On January 2, 2003, the Department released the *Affiliation Memo* to all parties, along with a cover

letter in which the Department took the additional step of soliciting, from all parties, initial and rebuttal comments on the information and findings contained within the *Affiliation Memo*. Subsequently, the Department took the extraordinary step of accepting new information from Qingdao Rirong, rebutting or clarifying the information and findings contained within the *Affiliation Memo*, as well as new information from the Domestic Interested Parties, rebutting information contained within Qingdao Rirong's comments on *Affiliation Memo*.

After further analysis and consideration of all evidence on the record, the Department has concluded that there is substantial evidence demonstrating Qingdao Rirong and its importer are affiliated in accordance with section 771(33) of the Act. Furthermore, the Department has concluded that the evidence of affiliation on the record outweighs the evidence and arguments provided by Qingdao Rirong in support of its argument that it is not affiliated with its importer. *See Qingdao Rirong Memo*. The Department therefore continues to find that Qingdao Rirong and its importer were both owned and controlled by a common party, and as such, are ''affiliated persons'' within the meaning of section 771(33) of the Act, through the POR of this administrative review, and at least until December 16, 2002.

Section 776(a)(2)(A) of the Act provides for the use of facts available when an interested party withholds information that has been requested by the Department. As discussed in detail in the *Qingdao Rirong Memo*, Qingdao Rirong withheld essential information concerning the relationship between itself and its importer. Because of this, Qingdao Rirong made it impossible for the Department to perform a timely analysis of the nature of the relationship between Qingdao Rirong and its importer.

Section 782(d) of the Act provides that if the Department determines that a response to a request for information does not comply with the request, the Department shall promptly inform the person submitting the response of the nature of the deficiency, and shall, to the extent practicable, provide that person with an opportunity to remedy or explain the deficiency in light of the time limits established for the completion of the administrative review. Accordingly, and despite the time constraints prescribed by section 351.213(h)(1) of the Department's regulations, when the Department discovered, through its own independent research, that Qingdao Rirong's responses were deficient with respect to information concerning the relationship between Qingdao Rirong and its importer, the Department issued another supplemental questionnaire on October 24, 2002, affording Qingdao Rirong an opportunity to explain the deficiency. The Department also gave Qingdao Rirong an opportunity to respond to its December 31, 2002 *Affiliation Memo*.

In accordance with section 776(b) of the Act, we find that an adverse inference is warranted because Qingdao Rirong failed to cooperate to the best of its ability in complying with the Department's requests for information. Again, Qingdao Rirong withheld essential information concerning the relationship between itself and its importer, making it impossible for the Department to perform a timely analysis of the nature of the relationship between Qingdao Rirong and its importer, and similarly impossible for the Department to timely determine whether its dumping analysis should have been based on a comparison of NV to EP or CEP.

Information concerning the relationship between an exporter and its importer is fundamental to the Department's antidumping analysis. In order to determine whether dumping has occurred, an EP or CEP (as defined in section 772 of the Act and section 351.401 of the Department's regulations) is compared to an NV (as defined in section 773 of the Act and section 351.401 of the Department's regulations). EP means ''the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States,'' while CEP means ''the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter . . . .'' *See* sections 772(a) and (b) of the Act. Thus, to determine whether its dumping analysis should be based on a comparison of NV to EP, or NV to CEP, the Department must first determine whether Qingdao Rirong and Y&Z are affiliated under section 771(33) of the Act.

Since the Department has not been provided with complete U.S. sales information concerning Qingdao Rirong's sales to the first unaffiliated purchaser, the Department is precluded from calculating an accurate dumping margin. Since Qingdao Rirong only reported data concerning its transactions with its importer, the Department does not possess data necessary for calculating an accurate dumping margin. This data includes the sales prices to Qingdao Rirong's first unaffiliated purchaser(s), and may include numerous other U.S. expenses (*e.g.*, U.S. inland shipping, insurance, and re-packing costs). The Department has no way of knowing what the prices to the first unaffiliated customers were, what expenses were incurred, nor even who Qingdao Rirong's first unaffiliated customers were.

Given that this is the third time Qingdao Rirong has been reviewed, the company should have been able to comply with the Department's requests for information in an accurate and timely manner. Furthermore, given that the owner of Qingdao Rirong was also the incorporator, president, chief executive officer, and an owner of the importer, information concerning the sales of each company, the history and ownership of these two companies, as well as the history of the owner's involvement with each company, would have been readily available to both the owner and his company, Qingdao Rirong. Finally, Qingdao Rirong never indicated that it was having any difficulty obtaining any requested information, or in understanding the Department's requests.

Qingdao Rirong gave insufficient attention to its statutory duties, beyond mere inadvertence, by virtue of its failure to provide requested information that is essential to the Department's dumping analysis. As noted above, this is the third review of Qingdao Rirong; as such, the company should have been fully aware of its statutory duties in this regard. Furthermore, the Department requested information relevant to the relationship between Qingdao Rirong and Y&Z in several different questionnaires, issued both prior and subsequent to the *Preliminary Results*. Thus, Qingdao Rirong had multiple opportunities to fulfill its statutory duty to provide such information. Finally, we note that, if a respondent has any question as to the scope of what may be relevant to the Department's analysis of the relationship between a seller and purchaser, that respondent need only contact the Department for clarification, or review the definition of ''affiliated persons,'' contained in Appendix I to the Department's initial questionnaire issued at the beginning of each review. In light of the aforementioned facts, Qingdao Rirong's failures to provide

complete information concerning the relationship between Qingdao Rirong and Y&Z, amount to a pattern of behavior of repeatedly withholding information requested by the Department.

For the reasons described above and in further detail in the *Qingdao Rirong Memo*, we conclude that Qingdao Rirong failed to cooperate to the best of its ability within the meaning of 776(b) of the Act, and that the application of total adverse facts available for Qingdao Rirong is warranted. Qingdao Rirong received a separate rate in the *Preliminary Results*, and this determination remains unchanged for these final results. As adverse facts available, the Department is assigning Qingdao Rirong the rate of 223.01 percent the highest rate determined in any segment of this proceeding. *See Qingdao Rirong Memo*. As discussed further below, this rate has been corroborated.

Corroboration of Secondary Information Used As AFA

Section 776(c) of the Act provides that when the Department relies on the facts otherwise available and relies on ''secondary information,'' the Department shall, to the extent practicable, corroborate that information from independent sources reasonably at the Department's disposal. The *Statement of Administrative Action*, H.R. Doc. 103–316 (SAA), states that ''corroborate'' means to determine that the information used has probative value. *See* SAA at 870. To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used.

With respect to Qingdao Rirong, China Kingdom, Fujian Pelagic, Qingdao Zhengri/Yancheng Yaou, Shantou SEZ, Suqian Foreign Trade, Yancheng Foreign Trade, and Yangzhou Lakebest, we are applying as AFA the highest rate from any segment of this administrative proceeding, which is a rate calculated in the 1999–2000 review. *See Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002). However, unlike other types of information, such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for calculated margins is administrative determinations. Thus, in an administrative review, if the Department chooses as total adverse facts available a calculated dumping margin from the current or a prior segment of the proceeding, it is not necessary to question the reliability of the margin for that time period. *See, e.g., Grain-Oriented Electrical Steel From Italy; Preliminary Results of Antidumping Duty Administrative Review*, 61 FR 36551, 36552 (July 11, 1996). With respect to the relevance aspect of corroboration, however, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin that has been discredited. *See D & L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here.

Accordingly, we determine that the highest rate from any segment of this administrative proceeding (*i.e.*, the calculated rate of 223.01 percent, which is the current PRC-wide rate) is in accord with section 776(c)'s requirement that secondary information be corroborated (*i.e.*, that it have probative value). The information used in calculating this margin was based on sales and production data of a respondent in a prior review, together with the most appropriate surrogate value information available to the Department, chosen from submissions by the parties in that review, as well as gathered by the Department itself. Furthermore, the calculation of this margin was subject to comment from interested parties in the proceeding. *See Freshwater Crawfish Tail Meat from the People's Republic of China; Notice of Final Results of Antidumping Duty Administrative Review, and Final Partial Rescission of Antidumping Duty Administrative Review*, 67 FR 19546 (April 22, 2002). Moreover, as there is no information on the record of this review that demonstrates that this rate is not appropriately used as adverse facts available for Qingdao Rirong, China Kingdom, Fujian Pelagic, Qingdao Zhengri/Yancheng Yaou, Shantou SEZ, Suqian Foreign Trade, Yancheng Foreign Trade, and Yangzhou Lakebest, we determine that this rate has probative value.

Final Results of Review

For these final results we determine that the following dumping margins exist:

Manufacturer/Exporter	Time Period	Margin (percent)
Qingdao Rirong	9/1/00–8/31/01	223.01
China Kingdom	9/1/00–8/31/01	223.01
PRC-Wide Rate[1]	9/1/00–8/31/01	223.01

[1] Fujian Pelagic, Qingdao Zhengri/Yancheng Yaou, Shantou SEZ, Suqian Foreign Trade, Yancheng Foreign Trade, and Yangzhou Lakebest are included in the PRC-wide rate.

Assessment of Antidumping Duties

Upon completion of this administrative review, the Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. For assessment purposes, for China Kingdom, Qingdao Rirong, and all exporters subject to the PRC-wide rate, we will direct Customs to assess the *ad valorem* rates against the entered value of each entry of the subject merchandise during the POR. The Department will issue appropriate assessment instructions directly to the Customs Service within 15 days of publication of the final results of review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of these final results for this administrative review for all shipments of freshwater crawfish tail meat from the PRC entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section

751(a)(2)(C) of the Act: (1) The cash deposit rate for the reviewed companies will be the rate established above; (2) for previously-reviewed PRC and non-PRC exporters with separate rates, the cash deposit rate will be the company-specific rate established for the most recent period; (3) for all other PRC exporters, the cash deposit rate will be the PRC-wide rate, 223.01 percent; and (4) for all other non-PRC exporters of the subject merchandise, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under section 351.402(f) 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 subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 351.305(a)(3) of the Department's regulations. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

APPENDIX

List of Issues

Comment 1: Valuation of the raw crawfish input
Comment 2: Cash deposit rates for producing and non-producing supplier combinations (Combination Rates)
Comment 3: Application of facts available to Qingdao Rirong Foodstuff Co., Ltd. (Qingdao Rirong) because it withheld information concerning its corporate affiliations
Comment 4: Application of facts available to Qingdao Rirong because it engaged in a pattern of noncompliance with regulations governing business proprietary information (BPI)
Comment 5: If Qingdao Rirong's margin is not based on adverse facts available, what should be used as partial facts available in calculating Qingdao Rirong's margin
Comment 6: Whether the Department improperly applied facts available to Yancheng Yaou Seafood Co., Ltd.
Comment 7: Application of Adverse Facts Available to China Kingdom Import & Export Co., Ltd. (China Kingdom)

[FR Doc. 03–9739 Filed 4–18–02; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–836]

Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Germany

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Patrick Connolly at (202) 482–0629 or (202) 482–1779, respectively, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

FINAL DETERMINATION:

We determine that polyvinyl alcohol (PVA) from Germany is being sold, or is likely to be sold, in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Background

The preliminary determination in this investigation was issued on February 12, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Germany*, 68 FR 7980 (Feb. 19, 2003) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. On March 3, 2003, the petitioners agreed to revise the scope of the companion case on PVA from Japan to exclude certain types of PVA covalently bonded with diacetoneacrylamide. The petitioners' submission was made in response to a request by Japan VAM and POVAL Co., Ltd., one of the mandatory respondents in the companion Japanese case.

Because these comments relate to PVA in general, we find that they are applicable to this proceeding. Accordingly, as we did in the preliminary determination, we have modified the scope to conform to that set forth in the companion Japanese proceeding, as described below. *See the Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, published in the **Federal Register** concurrently with this notice.

Scope of Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

(1) PVA in fiber form.

(2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles.

(3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps.

(4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application.

(5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification.

(6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.

(7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application.

(8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material.

(9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.

(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.

(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The POI is July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002).

Facts Available

In the preliminary determination, we based the dumping margin for the two mandatory respondents in this case, Clariant GMBH (Clariant) and Kuraray Specialties Europe GMBH (Kuraray Europe), on adverse facts available pursuant to section 776(b) of the Act. The use of adverse facts available was warranted because Clariant and Kuraray Europe, as mandatory respondents, failed to supply the information requested in the antidumping duty questionnaires issued to them. Therefore, we found that Clariant and Kuraray Europe failed to cooperate by not acting to the best of their ability. As a result, pursuant to section 776(b) of the Act, we used an adverse inference in selecting from the facts available. Specifically, we assigned Clariant and Kuraray Europe the highest margin stated in the notice of initiation (*i.e.*, 19.05 percent). We continue to find this margin corroborated, pursuant to section 776(c) of the Act. A complete explanation of both the selection and application of facts available can be found in the *Preliminary Determination*, 68 FR at 7981–82.

No interested parties have commented on the use of adverse facts available for Clariant and Kuraray Europe in this investigation, or to the choice of the facts available margin. Accordingly, for the final determination, we are continuing to use the highest margin stated in the notice of initiation for both Clariant and Kuraray Europe. *See* the *Preliminary Determination*, 68 FR at 7983.

We have left unchanged from the preliminary determination the ''All Others Rate'' in this investigation. *See* the *Preliminary Determination*, 68 FR at 7983.

Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. We did not hold a hearing because none was requested.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of PVA from Germany, that are entered, or withdrawn from warehouse, for consumption on or after February 19, 2003, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Clariant GMBH	19.05
Kuraray Specialties Europe GMBH	19.05
All Others	10.75

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–9735 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A-588–861]

Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Mike Strollo or Gregory E. Kalbaugh at (202) 482–0629 or (202) 482–3693, respectively, Office of AD/CVD Enforcement, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

FINAL DETERMINATION:

We determine that polyvinyl alcohol (PVA) from Japan is being sold, or is likely to be sold, in the United States at

less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are shown in the ''Suspension of Liquidation'' section of this notice.

Background

The preliminary determination in this investigation was issued on February 12, 2003. *See Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Japan*, 68 FR 8203 (Feb. 20, 2003) (*Preliminary Determination*).

Since the preliminary determination, the following events have occurred. On February 21, 2003, the Nippon Synthetic Chemical Industry Co., Ltd. (Nippon Gohsei), one of the mandatory respondents in this investigation, notified the Department that it would no longer participate in this investigation, and it requested that the Department remove its business proprietary information from the record of this proceeding. On February 27, 2003, the Department destroyed Nippon Gohsei's submissions containing business proprietary information and notified Nippon Gohsei of this action. For further discussion, see the ''Facts Available (FA)'' section of this notice.

On March 3, 2003, the petitioners agreed to revise the scope to exclude certain types of PVA covalently bonded with diacetoneacrylamide, pursuant to a request by one of the mandatory respondents in this case, Japan VAM and POVAL Co., Ltd. (Japan VAM & POVAL). For a description of this merchandise, see the ''Scope of the Investigation'' section below. There were no case or rebuttal briefs submitted. A public hearing was not requested.[1]

Scope of Investigation

The merchandise covered by this investigation is PVA. This product consists of all PVA hydrolyzed in excess of 80 percent, whether or not mixed or diluted with commercial levels of defoamer or boric acid, except as noted below.

The following products are specifically excluded from the scope of this investigation:

(1) PVA in fiber form.

(2) PVA with hydrolysis less than 83 mole percent and certified not for use in the production of textiles.

(3) PVA with hydrolysis greater than 85 percent and viscosity greater than or equal to 90 cps.

(4) PVA with a hydrolysis greater than 85 percent, viscosity greater than or equal to 80 cps but less than 90 cps, certified for use in an ink jet application.

(5) PVA for use in the manufacture of an excipient or as an excipient in the manufacture of film coating systems which are components of a drug or dietary supplement, and accompanied by an end-use certification.

(6) PVA covalently bonded with cationic monomer uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.

(7) PVA covalently bonded with carboxylic acid uniformly present on all polymer chains in a concentration equal to or greater than two mole percent, certified for use in a paper application.

(8) PVA covalently bonded with thiol uniformly present on all polymer chains, certified for use in emulsion polymerization of non-vinyl acetic material.

(9) PVA covalently bonded with paraffin uniformly present on all polymer chains in a concentration equal to or greater than one mole percent.

(10) PVA covalently bonded with silan uniformly present on all polymer chains certified for use in paper coating applications.

(11) PVA covalently bonded with sulfonic acid uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(12) PVA covalently bonded with acetoacetylate uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(13) PVA covalently bonded with polyethylene oxide uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(14) PVA covalently bonded with quaternary amine uniformly present on all polymer chains in a concentration level equal to or greater than one mole percent.

(15) PVA covalently bonded with diacetoneacrylamide uniformly present on all polymer chains in a concentration level greater than three mole percent, certified for use in a paper application.

The merchandise under investigation is currently classifiable under subheading 3905.30.00 of the *Harmonized Tariff Schedule of the United States* (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Period of Investigation

The period of investigation (POI) is July 1, 2001, through June 30, 2002. This period corresponds to the four most recent fiscal quarters prior to the month of the filing of the petition (*i.e.*, September 2002).

Facts Available (FA)

In the preliminary determination, we based the dumping margin for three of the four mandatory respondents in this case, Denki Kagaku Kogyo Kabushiki Kaisha (Denki Kagaku), Japan VAM & POVAL, and Kuraray Co., Ltd. (Kuraray), on adverse facts available pursuant to section 776(b) of the Act. The use of adverse facts available was warranted because Denki Kagaku, Japan VAM & POVAL, and Kuraray, as mandatory respondents, failed to supply the information requested in the antidumping duty questionnaires issued to them. Therefore, we found that Denki Kagaku, Japan VAM & POVAL, and Kuraray failed to cooperate by not acting to the best of their ability. As a result, pursuant to section 776(b) of the Act, we used an adverse inference in selecting from the facts available. Specifically, we assigned Denki Kagaku, Japan VAM & POVAL, and Kuraray the highest margin alleged in the notice of initiation. A complete explanation of both the selection and application of facts available can be found in the *Preliminary Determination*, 68 FR at 8205. We have done a new corroboration analysis which is discussed below.

No interested parties have commented on the use of adverse facts available for Denki Kagaku, Japan VAM & POVAL, and Kuraray in this investigation, or to the choice of the facts available margin. Accordingly, for the final determination, we are continuing to use the highest margin alleged in the notice of initiation for Denki Kagaku, Japan VAM & POVAL, and Kuraray. *See* the *Preliminary Determination*, 68 FR at 8209. Moreover, we continue to find that the data on which this margin is based has probative value, as discussed below in the ''Corroboration of Information'' section of this notice.

Regarding the fourth mandatory respondent, Nippon Gohsei, on February 21, 2003, this company notified the Department that it would no longer participate in the investigation. Section 776(a)(2) of the Act provides that, if an interested party (A) withholds information requested by the Department, (B) fails to provide such information by the deadline, or in the

[1] Normally, when the Department issues a final determination, the Federal Register notice is accompanied by a separate Issues and Decision Memorandum. Since no briefs were filed in this case, we have not issued a separate memorandum.

form or manner requested, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Because Nippon Gohsei provided information to the Department but subsequently withdrew that information from the record of this case, we have applied FA to calculate its dumping margin, pursuant to section 776(a)(2)(C) of the Act.

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with a request for information. *See, e.g., Notice of Final Determination of Sales of Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (Aug. 30, 2002). Nippon Gohsei was notified in the Department's original and supplemental questionnaires that failure to submit the requested information by the dates specified might result in use of FA. After the Department issued its preliminary determination, Nippon Gohsei: 1) notified the Department that it would no longer participate in this investigation; and 2) withdrew its submissions containing business proprietary information from the record. Without Nippon Gohsei's data, we are unable to calculate a dumping margin for Nippon Gohsei. As a consequence, we find that Nippon Gohsei has failed to cooperate to the best of its ability. As Nippon Gohsei failed to cooperate to the best of its ability, we are applying an adverse inference pursuant to section 776(b) of the Act.

Corroboration of Information

Section 776(b) of the Act authorizes the Department to use as AFA information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record.

Section 776(c) of the Act requires the Department to corroborate, to the extent practicable, secondary information used as FA. Secondary information is defined as ''{i}nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316 at 870 (1994) and 19 CFR 351.308(d).

The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* the SAA at 870. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.*

In the preliminary determination, we corroborated the margins in the petition using information submitted by Nippon Gohsei. However, because Nippon Gohsei has withdrawn this information from the record of this case, we have re-examined the issue of corroboration for the final determination.

Therefore, in order to determine the probative value of the margins in the petition for use as AFA for purposes of this determination, we examined additional evidence supporting the calculations in the petition. We reviewed the adequacy and accuracy of the information in the petition during our pre-initiation analysis of the petition, to the extent appropriate information was available for this purpose (*see* the September 25, 2002, Initiation Checklist, on file in the Central Records Unit, Room B-099, of the Main Commerce Department building, for a discussion of the margin calculations in the petition). In accordance with section 776(c) of the Act, to the extent practicable, we examined the key elements of the export price (EP) and normal value (NV) calculations on which the margins in the petition were based.

Export Price

With respect to the margins in the petition, EP was based on POI price quotes for the sale of PVA produced by Kuraray to customers in the United States. The petitioners calculated net U.S. prices for PVA by deducting a distributor mark-up, where applicable, and certain movement charges.

For purposes of corroborating the price-to-price calculations in the petition, we compared these prices to U.S. customs data. Using U.S. customs data, we calculated the average U.S. price of imports from all mandatory respondents. We found that the petitioners' price quotes were comparable to the U.S. Customs information. Therefore, we find that the petitioners' information for U.S. price continues to have probative value.

For further discussion, see the April 28, 2003, memorandum to the file from the team entitled ''Corroboration of Data Contained in the Petition for Assigning Facts Available Rates'' (Corroboration Memo).

Normal Value

The petitioners based NV on home market price quotes from Kuraray for PVA of a comparable grade to the products exported to the United States. These price quotes were contemporaneous with the U.S. price quotes used as the basis for EP. In addition, the petitioners alleged that sales of PVA products in the home market were made at prices below the fully absorbed cost of production (COP), within the meaning of section 773(b) of the Act, and requested that the Department conduct a country-wide sales-below-cost investigation. Based upon a comparison of the prices of the foreign like product in the home market to the calculated COP of the product, we found reasonable grounds to believe or suspect that sales of the foreign like product were made below the COP, within the meaning of section 773(b)(2)(A)(i) of the Act. Accordingly, the Department initiated a country-wide cost investigation. Pursuant to section 773(b)(3) of the Act, COP consisted of the cost of manufacture (COM), selling, general and administrative (SG&A) expenses, and packing. The petitioners calculated COP based on the experience of a U.S. PVA producer during the 2001 fiscal year, adjusted for known differences between costs incurred to manufacture PVA in the United States and Japan.

Pursuant to sections 773(a)(4), 773(b) and 773(e) of the Act, the petitioners based NV for sales in Japan on constructed value (CV). The petitioners calculated CV using the same COM, SG&A and financial expense figures used to compute the COP. Consistent with section 773(e)(2) of the Act, the petitioners included in CV an amount for profit. For profit, the petitioners relied upon the amount reported in Kuraray's 2001 financial statements. The petitioners made a circumstance-of-sale adjustment for credit expenses.

The Department was provided with no useful information by the respondents or other interested parties and is aware of no other independent sources of information that would enable us to further corroborate the margin calculations in the petition. Specifically, we attempted to locate both home market prices through publicly available sources and U.S. producer costs upon which CV was

based, but we were unable to do so. *See* the Corroboration Memo.

It is worth noting that the implementing regulation for section 776 of the Act states, ''(t)he fact that corroboration may not be practicable in a given circumstance will not prevent the Secretary from applying an adverse inference as appropriate and using secondary information in question. '' *See* 19 CFR 351.308(d). Additionally, the SAA at 870 specifically states that where ''corroboration may not be practicable in a given circumstance,'' the Department need not prove that the facts available are the best alternative information.

Therefore, based on our efforts, described above, to corroborate information contained in the petition, and in accordance with 776(c) of the Act, we consider the margins in the petition to be corroborated to the extent practicable for purposes of this final determination. *See* the Corroboration Memo.

Accordingly, in selecting AFA with respect to Denki Kagaku, Japan VAM & POVAL, Kuraray, and Nippon Gohsei, we have applied the margin rate of 144.16 percent, which is the highest estimated dumping margin set forth in the notice of initiation. *See* the *Initiation Notice*, 67 FR at 61593.

All Others

Section 735(c)(5)(B) of the Act provides that, where the estimated weighted-average dumping margins established for all exporters and producers individually investigated are zero or *de minimis*, or are determined entirely under section 776 of the Act, the Department may use any reasonable method to establish the estimated ''All Others'' rate for exporters and producers not individually investigated. This provision contemplates that we weight-average margins other than zero, *de minimis*, and FA margins to establish the ''All Others'' rate. Where the data do not permit weight-averaging such rates, the SAA provides that we may use other reasonable methods. *See* SAA at 873. Because the petition contained four estimated dumping margins, we have used these four estimated dumping margins, as adjusted per the notice of initiation, to create an ''All Others'' rate based on a simple average. Therefore, we have calculated the margin of 76.78 percent as the ''All Others'' rate. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Final Affirmative Finding of Critical Circumstances: Elastic Rubber Tape from India*, 64 FR 19123, 19124 (Apr. 19, 1999).

Analysis of Comments Received

We received no comments from interested parties in response to our preliminary determination. We did not hold a hearing because none was requested.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we are directing the Customs Service to continue to suspend all entries of PVA from Japan, that are entered, or withdrawn from warehouse, for consumption on or after February 20, 2003, the date of publication of our preliminary determination. The Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown below. These instructions suspending liquidation will remain in effect until further notice.

The dumping margins are provided below:

Manufacturer/exporter	Margin (percent)
Denki Kagaku Kogyo Kabushiki Kaisha	144.16
Japan VAM & POVAL Co., Ltd.	144.16
Kuraray Co., Ltd.	144.16
The Nippon Synthetic Chemical Industry Co., Ltd.	144.16
All Others	76.78

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our determination. As our final determination is affirmative, the ITC will, within 45 days, determine whether these imports are materially injuring, or threaten material injury to, the U.S. industry. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing the Customs Service to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 03–9738 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–809]

Stainless Steel Butt-Weld Pipe Fittings from Malaysia: Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Rescission of the antidumping duty administrative review for the period February 1, 2002 through January 31, 2003.

SUMMARY: On March 25, 2003, in response to a request made by Schulz (Mfg.) Sdn. Bhd. (''Schulz''), a producer and exporter of the subject merchandise in Malaysia, the Department of Commerce (''Department'') published a notice of initiation of an antidumping duty administrative review on stainless steel butt-weld pipe fittings (''SSBWPF'') from Malaysia, for the period February 1, 2002 through January 31, 2003. Because Schulz has withdrawn its request for review, and there were no other requests for review for this time period, the Department is rescinding this review in accordance with 19 CFR 351.213(d)(1).

EFFECTIVE DATE: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: James C. Doyle, Enforcement Group III, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, N.W., Washington, DC 20230; telephone: 202–482–0159.

SUPPLEMENTARY INFORMATION:

Background

On February 28, 2003, Schulz, a producer and exporter of the subject merchandise in Malaysia, requested the Department to conduct an administrative review of its sales for the period February 1, 2002 through January 31, 2003. Schultz was the only interested party to request a review for this time period. On March 25, 2003, the Department published a notice of initiation of the antidumping administrative review on SSBWPF from Malaysia, in accordance with 19 CFR 351.221(c)(1)(i). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocations in Part*, 68 FR 14394 (March 25, 2003). On March 31, 2003, Schulz withdrew its request for review.

Rescission of Review

Pursuant to the Department's regulations, the Department will rescind an administrative review ''if a party that requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' *See* 19 CFR 351.213(d)(1). Schultz, the only interested party to request an administrative review for this time period, withdrew its request for this review within the 90–day time limit; accordingly, we are rescinding the administrative review for the period February 1, 2002 through January 31, 2003, and will issue appropriate assessment instructions to the U.S. Customs Service.

This notice serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation. This determination is issued in accordance with 19 CFR 351.213(d)(4) and section 777(i)(1) of the Tariff Act of 1930, as amended.

Dated: April 14, 2003.

Joseph A. Spetrini,

Acting Assistant Secretaryfor Import Administration.

[FR Doc. 03–9740 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041503B]

Proposed Information Collection; Comment Request; NOAA Coastal Ocean Program Grants Proposal Application Package

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 June 20, 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 Leslie McDonald, 301–713–3338, ext. 155, or *Leslie.McDonald@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The National Oceanic and Atmospheric Administration's Coastal Ocean Program (COP) provides direct financial assistance through grants and cooperative agreements for research supporting the management of coastal ecosystems. In addition to standard government application requirements, applicants for financial assistance are required to submit a summary proposal budget form and a project summary form. Applicants are also requested to submit 20 copies of applications to expedite the review process. Recipients are required to file annual progress reports and a project final report using COP formats. All of these requirements are needed for better evaluation of proposals and monitoring of awards.

II. Method of Collection

Paper forms and documents are submitted to the COP. The option of electronic submission is being explored. NOAA COP will participate in the government-wide E-Grants electronic application process once it has been completed. NOAA COP is also participating in the NOAA-wide Grants Online effort, which will allow COP staff the ability to accept electronic proposals, conduct the peer-review process electronically, and process awards for recipients. However, both of these electronic options are not yet available. It is anticipated that the E-grants electronic option to receive proposals will be made available throughout NOAA in late 2004.

III. Data

OMB Number: 0648–0384.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Not-for-profit institutions (universities, colleges, junior colleges, technical schools, laboratories); State, Local, or Tribal Government.

Estimated Number of Respondents: 300.

Estimated Time Per Response: 30 minutes for a budget form; 30 minutes for a project summary; 5 hours for an annual report; 10 hours for a final report; and 10 minutes to provide the extra copies required.

Estimated Total Annual Burden Hours: 1,100.

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: April 14, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–9788 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–JS–S

DEPARTMENT OF COMMERCE

[I.D. 041503D]

Submission for OMB Review; Comment Request

The Department of Commerce has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Capital Construction Fund Deposit/Withdrawal Report.

Form Number(s): NOAA Form 38–42.

OMB Approval Number: 0648–0041.

Type of Request: Regular submission.

Burden Hours: 1,200.

Number of Respondents: 3,600.

Average Hours Per Response: 20 minutes.

Needs and Uses: The respondents to this collection will be commercial fishing industry individuals, partnerships, and corporations which entered into Capital Construction Fund agreements with the Secretary of Commerce allowing deferral of Federal taxation on fishing vessel income deposited into the fund for use in the acquisition, construction, or reconstruction of fishing vessels. Deferred taxes are recaptured by reducing an agreement vessel's basis for depreciation by the amount withdrawn from the fund for its acquisition, construction, or reconstruction. The deposit/withdrawal information collected from agreement holders is required pursuant to 50 CFR Part 259.35 and P.L. 99–514 (The Tax Reform Act, 1986). The information collected is required to ensure that agreement holders are complying with fund deposit/withdrawal requirements established in program regulations and properly accounting for fund activity on their Federal income tax returns. The information collected must also be reported annually to the Secretary of Treasury in accordance with the Tax Reform Act, 1986.

The information will be collected on the Capital Construction Fund Deposit/Withdrawal Report form, which agreement holders are required to submit at the end of their tax year.

Affected Public: Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 14, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–9789 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041403D]

Gulf of Mexico 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 Gulf of Mexico Fishery Management Council (Council) will convene public meetings of the Technical Review Panel, the User Review Panel, and the Standing Scientific and Statistical Committee (SSC) from May 5, 2003 through May 7, 2003.

DATES: The Council's Technical Review Panel, User Review Panel, and Standing SSC will convene in separate meetings at 1 p.m. on Monday, May 5, 2003 and will conclude by 4 p.m. on Wednesday, May 7, 2003.

ADDRESSES: The meetings will be held at the DoubleTree Hotel Tampa Westshore, 4500 West Cypress Street, Tampa, FL; telephone: (813) 879–4800.

Council address: Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619.

FOR FURTHER INFORMATION CONTACT: Dr. Richard Leard, Senior Fishery Biologist, Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619; telephone: (813) 228–2815.

SUPPLEMENTARY INFORMATION: The Technical Review Panel will review final draft of the essential fish habitat environmental impact statement (EFH EIS) and provide the Council and contractor with suggestions for technical revisions. In addition the Technical Review Panel members serve as contract monitors.

The User Review Panel will review the final draft of the EFH EIS and provide the Council and contractor with suggestions for revisions. In addition the User Review Panel members are asked to provide their comments on whether the documents properly address the issues of each user group represented. The User Review Panel is comprised of representatives from the following sectors: recreational, charter, commercial, environmental, oil and gas industry, and wetlands owners.

The Standing Scientific and Statistical Committee will review the final draft of the EFH EIS and provide the Council and contractor with an evaluation of the scientific completeness and possible suggestions for revisions. The SSC will also review and comment on a proposed Amendment 21 to the Reef Fish Fishery Management Plan to extend the time period for the Madison/Swanson and Steamboat Lumps marine reserves beyond their June 16, 2004 expiration date.

The Council will review these panels comments at a special Council meeting scheduled for June 5–6, 2003 at the New Orleans Airport Plaza Hotel and Conference Center. Final action to approve the EFH EIS is scheduled at the Council's July 14–18, 2003 meeting in Naples, FL.

Although non-emergency issues not contained in the agendas may come before the Technical and User Review Panels and the SSC for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA), those issues may not be the subject of formal action during these meetings. 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 MSFCMA, provided the public has been notified of the Council's intent to take final action to address the emergency.

Copies of the agendas of these meetings can be obtained by calling the Council office at 813–228–2815 (toll-free 888–833–1844).

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by April 28, 2003.

Dated: April 15, 2003.

Matteo J. Milazzo,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–9791 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041003A]

Marine Fisheries Advisory Committee; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: Notice is hereby given of meetings of the Marine Fisheries Advisory Committee (MAFAC) from May 13 through 15, 2003.

DATES: The meetings are scheduled as follows:

May 13, 2003, 9 a.m. – 5:30 p.m.
May 14, 2003, 8:30 a.m. – 5:30 p.m.
May 15, 2003, 10 a.m. – 1 p.m.

ADDRESSES: The meetings will be held at Paradise Point Resort, 1404 Vacation Road, San Diego, CA. Requests for special accommodations may be directed to MAFAC, Office of Constituent Services, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Laurel Bryant, Designated Federal Official; telephone: (301) 713–9501 ext. 171.

SUPPLEMENTARY INFORMATION: As required by section 10(a) (2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of meetings of MAFAC. MAFAC was established by the Secretary of Commerce (Secretary) on February 17, 1972, to advise the Secretary on all living marine resource matters that are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of the Nation are adequate to meet the needs of commercial and recreational fisheries, and of environmental, state, consumer, academic, tribal, and other national interests.

Matters to Be Considered

May 13, 20003

Overview and updates on the status of various management initiatives and issues including regulatory streamlining initiative, and results of the five year review of implementing the 1996 Sustainable Fisheries Act amendments to the Magnuson-Stevens Fisheries Conservation and Management Act, annual Status of Stocks report and national standard 1 guidelines.

May 14, 2003

Update on national bycatch strategy and discussion of various science and technology management issues and initiatives. MAFAC will then review a final draft of the MAFAC Ecosystem Task Force report for final submission to the National Marine Fisheries Service, and discuss the status of essential fish habitat in the fisheries management process.

May 15, 2003

Committee willmake final reports to NOAA Fisheries, discuss next meeting agenda, locations and dates for 2004, and adjourn.

Time will be set aside for public comment on agenda items.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to MAFAC (see **ADDRESSES**).

Dated: April 15, 2003.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 03–9787 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041003C]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Trawl Survey Advisory Committee, composed of representatives from the Northeast Fisheries Science Center (NEFSC), the MAFMC, the New England Fishery Management Council (NEFMC), and several independent scientific researchers, will hold a public meeting.

DATES: The meeting will be held on Monday, May 5th, from 1 p.m. to 6 p.m. and Tuesday, May 6th, from 8 a.m. until noon.

ADDRESSES: This meeting will be held at the Crowne Plaza Meadowlands, Two Harmon Plaza, Secaucus, NJ; telephone: 201–348–6900.

Council address: Mid-Atlantic Fishery Management Council, Room 2115, 300 S. New Street, Dover, DE 19904.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to prioritize goals and objectives in order to provide important advice and feedback to the NEFSC on its trawl surveys.

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 Joanna Davis at the Mid-Atlantic Council Office (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 15, 2003.

Matteo J. Milazzo

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–9790 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041403F]

North 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 North Pacific Fishery Management Council's (Council) Essential Fish Habitat (EFH) Committee will hold a public meeting.

DATES: The meeting will be held on May 5–6, 2003.

ADDRESSES: The meeting will be held at NMFS Alaska Region, 709 W. 9th Street, Room 150, Juneau, AK.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Cathy Coon, Council staff, telephone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Committee will meeting from noon to 6 p.m. on Monday, May 5, and from 8 a.m. to 5 p.m. on Tuesday, May 6. The Committee will continue working on a process for identifying and evaluating potential habitat areas of particular concern. Committee recommendations will be presented to the North Pacific Fishery Management Council in June.

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 Gail Bendixen at 907–271–2809 at least 7 working days prior to the meeting date.

Dated: April 15, 2003.

Matteo J. Milazzo,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–9793 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041403G]

South Atlantic 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 South Atlantic Fishery Management Council (Council) will hold a meeting of its Information and Education Committee and a joint meeting of the Committee and Information and Education Advisory Panel in Charleston, SC.

DATES: The meeting will be held on May 13–15, 2003. SEE SUPPLEMENTARY INFORMATION for specific dates and times.

ADDRESSES: The meeting will be held at the Town & Country Inn, 2008 Savannah Highway, Charleston, SC 29407; telephone: (843) 571–1000; fax: (843) 766–9444.

Council address: South Atlantic Fishery Management Council, One Southpark Circle, Suite 306, Charleston, SC 29407.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer,; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520.

SUPPLEMENTARY INFORMATION: The Information and Education Committee will meet from 10 a.m. until 12 noon on May 13, 2003. The Committee will meet jointly with the Information and Education Advisory Panel from 1:30 p.m. until 5 p.m. on May 13, 2003, from 8:30 a.m. until 5 p.m. on May 14, 2003, and from 8:30 a.m. until 12 noon on May 15, 2003.

The Information and Education Committee will meet to review and discuss issues to be addressed during the joint meeting relative to outreach and public affairs. During the joint meeting, the Advisory Panel will receive an overview of the South Atlantic Fishery Management Council's current Information and Education program. The Advisory Panel will review and make recommendations regarding a draft strategic management plan for the program. In addition, members will review and make recommendations concerning the Council's Information and Education program including outreach efforts, working with the media, networking with state and federal partners and program evaluation. The Advisory Panel and Committee will develop a list of recommendations and priorities for the Council to consider.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the council office (see **ADDRESSES**) by May 12, 2003.

Dated: April 15, 2003.

Matteo J. Milazzo,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–9795 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 041403E]

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 83rd meeting of the Western Pacific Fishery Council's Scientific and Statistical Committee (SSC) will convene in Honolulu, HI.

DATES: The meeting will be held on May 6–8, 2003. The SSC meeting will be held from 9 a.m. to 5 p.m. on May 6, 2003 and from 8:30 a.m. to 5 p.m. on May, 7–8 2003.

ADDRESSES: The 83rd 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, May 6, 2003, 9 a.m.

1. Bottomfish

a. 2002 Annual Report
b. Overfishing/Maximum Sustainable Yield
i. Status of the stocks based on new control rule
ii Genetic research
iii. Main Hawaiian Islands (MHI) area closure monitoring
iv. Rebuilding options for stocks
c. Guam offshore fishery management
d. Plan Team report

2. Protected Species

a. Status of Sea Turtle Recovery Team and Recovery Plans

b. Report on Monk Seal Recovery Team Meeting (15–17 April, 2003)

3. Crustaceans Fisheries

a. Status of the fishery
b. Report on Northwestern Hawaiian Islands (NWHI) lobster research
i. Report on MULTIFAN-CL stock assessment analyses
ii. Report on slipper lobster tagging research
iii. Report on analyses of outstanding lobster cruise data
c. NMFS annual lobster research cruise plan
d. MHI lobster stock assessment
e. Plan Team report

4. Precious Corals

Plan Team report

Wednesday, May 7, 2003, 8:30 a.m.

5. Quantitative assessment of capacity in Hawaii's fisheries.

6. Pelagic Fisheries

a. 2002 Annual Report
b. Report on American Samoa scientific data collection program
c. Report on phase two of chute trials for Seabird conservation
d. Turtle/Fishery conservation alternatives
e. Marlin management
f. Status of Environmental Impact Statements (EISs)
i. Supplemental Pelagic EIS
ii. MHI Turtle EIS
g. International Meetings and Issues
i. Food & Agriculture Organization Committee on Fisheries (COFI) meeting
ii. NMFS Turtle bycatch meeting
iii. 23rd Turtle symposium
h. Plan Team report

Thursday, May 8, 2003, 8:30 a.m.

7. Taape (blue lined snapper) interactions with reef fish

8. Ecosystem and Habitat

a. NOS NWHI Reserve Science Workshop
b. NMFS/Council NWHI Symposium
c. Report from Council Marine Protected Area Working Group
d. Report on Secretariat of the Pacific Community Coastal Fishery Management Meeting
e. Report on Plan Team meeting

9. Other Business

Report from the Social Science Research CommitteeAlthough 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: April 15, 2003.

Matteo J. Milazzo,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–9792 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[ID. 040703E]

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Application for an Exempted Fishing Permit

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

ACTION: Notice of receipt of an exempted fishing permit application; request for comments.

SUMMARY: NMFS announces the receipt of an exempted fishing permit (EFP) application for a cooperative project between the Oregon State Department of Fish and Wildlife (ODFW), and the NMFS Northwest Fishery Science Center. If awarded, this EFP would allow qualifying vessels to harvest and retain federally managed groundfish in closed rockfish conservation areas and to retain federally managed groundfish species in excess of cumulative trip limits. These activities are otherwise prohibited. Vessels fishing under these EFPs will be required to carry a Federal fisheries observer while conducting EFP fishing. This EFP proposal is intended to promote the objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by assessing the effectiveness of a fishing gear configuration that was designed to harvest flatfish stocks while reducing the incidental catch of low abundance rockfish species.

DATES: Comments must be received by May 6, 2003.

ADDRESSES: Copies of the EFP application are available from Becky Renko Northwest Region, NMFS, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070.

FOR FURTHER INFORMATION CONTACT: Becky Renko (206)526–6110 or Carrie Nordeen (206) 526–6144.

SUPPLEMENTARY INFORMATION: This action is authorized by the FMP and implementing regulations at 50 CFR 600.745 and 50 CFR 660.350.

Dover sole, petrale sole, English sole, rex sole, and arrowtooth flounder are abundant and important flatfish species in the Pacific Coast groundfish fishery. These flatfish species have historically been caught by vessels using trawl gear in depths of 50–150 fathoms (91–274 meters). Beginning in 2003, many of the areas where these flatfish species have historically been harvested are within the Trawl Rockfish Conservation Area (RCA) where fishing with bottom trawl gear is prohibited. Rockfish conservation areas are gear-specific, large-scale depth-related areas where low abundance (overfished) rockfish species are commonly found. It was necessary to define these areas to restrict fishing so the 2003 optimum yield (OY) levels for the overfished rockfish species are not exceeded.

The purpose of the exempted fishing activity is to measure the rate at which un-targeted species, particularly canary, darkblotched, yelloweye and widow rockfish, are taken by commercial fishers using an experimental trawl net. This experimental net was specifically designed to be more selective in the harvest of flatfish species than the trawl net configurations that are currently used in the fishery.

In 2001 and 2002, ODFW chartered commercial fishing vessels to develop and test new trawl net designs. Testing was conducted to compare the new net design with trawl net configurations that are typically used in the fishery. During the initial testing, significant reductions in the catch of overfished rockfish species relative to flatfish catch were observed. ODFW believes that this gear design, which meets the requirements of small footrope bottom trawl gear as defined by regulations at 50 CFR 660, could become an effective way for fishery participants to reduce rockfish bycatch in the flatfish fishery.

To encourage fishers to use this gear, increased trip limits for flatfish would be available to vessels that are willing to modify their existing gear or purchase new gear that is consistent with the design requirements, as defined by

ODFW, and who are willing to carry an observer on board their vessel during all EFP fishing. The information gathered through this EFP may lead to changes in the management measures and future rulemakings.

An EFP is needed to allow for vessel to retain and land fish in excess of the trip limits announced in the **Federal Register** and to use the experimental trawl gear to directly harvest Dover sole, petrale sole, English sole, rex sole, and arrowtooth flounder in an RCA, where these flatfish species are most abundant. These activities are otherwise prohibited by Federal regulations. The information gathered through this EFP may lead to future rulemakings.

If issued, approximately eight vessels from various ports along the coast of Oregon, that have historically harvested Petrale and English sole, will fish under this EFP between May 1 and October 31, 2003. Vessels would be required to retain all rockfish and the proceeds from the sale of rockfish in excess of current trip limits would be abandoned to NMFS or the state of landing. During the effective dates of the EFP, participating vessels must carry a Federal fishery observer whenever they: (1) fish in a RCA; (2) use the experimental trawl gear specified in this EFP whether or not the vessel is used to fish within an RCA; or (3) take, retain, possess or land fish in excess of the current trip limits published in the **Federal Register**. Participation under this EFP does not exempt a vessel from Federal observer coverage requirements at 50 CFR 660.360. A participating vessel may also be required to carry a Federal observer throughout the cumulative period.

In addition to the cumulative trip limits announced in the **Federal Register**, each participating vessel will be permitted to take 1,500 lb (680 kg) of ''other flatfish'' and petrale sole per month, and 7,000 lb (3175 kg) of Dover sole per month. The total amount (discard plus retained) of Dover sole allowed to be taken under this EFP will not exceed 305 metric tons (mt) and total amount (discard plus retained) of petrale sole and ''other flatfish'' combined will not exceed 65 mt. The EFP fishing will be constrained by the following EFP limits for overfished species: yelloweye rockfish 1.2 mt, canary rockfish 2.7 mt, and widow rockfish 1.0 mt, darkblotched rockfish 2.1 mt, and Pacific ocean perch P >0.5 mt. If the EFP limits for any one of these overfished species is reached, the EFP will be terminated for the remainder of the 2003 fishing year. All EFP harvests are expected to be within set asides for 2003 EFP harvests and, therefore, no OY is expected to be exceeded.

This EFP requires that the participating vessels carry a Federal groundfish observer provided by NMFS. Observers will collect data from vessels which incidental catch rates and total catch of various species and species groups can be estimated. Observers may also collect and retain specimens of otherwise prohibited fish caught by the vessel.

At the Pacific Fishery Management Councils (Council) November 2002, meeting in Foster City, CA, the applicants presented this EFP application to the Council. The Council considered the application and recommended that NMFS issue the EFP for the proposed activity. Data collected during this project are expected to benefit the management of the groundfish fishery by providing much needed information on how effectively unintended species can be selected against by using a trawl gear design that is based on behavioral differences between species. Copies of the applications are available for review from NMFS (see **ADDRESSES**).

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

Dated: April 16, 2003.

Dean Swanson,

Acting Director, Office of Sustainable Fisheries , National Marine Fisheries Service.

[FR Doc. 03–9794 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. 2003–C–016]

Notice of Publication of the 2002 Annual Index to the Electronic Official Gazette of the Patent and Trademark Office—Patents (eOG:P)

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Notice.

SUMMARY: Notice is hereby given that the United States Patent and Trademark Office (USPTO) has published the 2002 Annual Index to the *Electronic Official Gazette of the United States Patent and Trademark Office—Patents (eOG:P).* This annual index is published on DVD-ROM.

DATES: The 2002 Annual Index to the *eOG:P* is now available.

SUPPLEMENTARY INFORMATION: The United States Patent and Trademark Office has announced that the 2002 *Annual Index to the Electronic Official Gazette of the United States Patent and Trademark Office '' Patents (eOG:P)* is now available. This electronic annual index is unique from previous paper annual indexes in that the indexes and bibliographic records for the year are now included in this one source. The 2002 Annual Index provides all records contained in the weekly issues of the *eOG:P* for 2002, including January through June, which were previously not available electronically.

The *eOG:P* records contain bibliographic information, including classification, inventor and assignee, as well as a representative claim and drawing (if applicable). Consistent with the weekly *eOG:P* issues, patents are indexed and browsable by classification and type of patent (utility, plant, etc.), as well as by patentee name and geographical location of the inventor. Links are provided from all indexes to the *eOG:P* record for that patent.

The *Official Gazette Notices,* covering both patents and trademarks, are included as is the *Consolidated Listing of Official Gazette Notices Re—Patent and Trademark Office Practices and Procedures.* This publication is a compilation of the most important notices and rule changes which have been published in the Official Gazette from July 1, 1964, through December 21, 2002. Appendices include a summary of the number of Patents, Defensive Publications, and Statutory Invention Registrations issued from 1836 through 2002 and a listing of Patent and Trademark Depository Libraries (PTDLs).

Due to the large amount of data, the 2002 *Annual Index to the eOG:P* is published on one DVD–ROM disc, not on CD–ROM. The price of the index is $300.00 and is not included in the annual subscription price of the *eOG:P.*

The *Index of Patents Issued From the United States Patent and Trademark Office* will continue to be published in a paper format through 2002 to coincide with the paper publication of the *Official Gazette —Patents,* which ceased publication as of September 24, 2002. This publication will continue to be supplied by the Superintendent of Documents, U.S. Government Printing Office (GPO). For more information, please visit the GPO Web site at: *http://www.access.gpo.gov/su_docs/.*

FOR FURTHER INFORMATION CONTACT: Office of Electronic Information Products, Crystal Park 3, Suite 441, Washington, DC 20231, Phone: (703) 306–2600/ Fax: (703) 306–2737, e-mail: *cassis@uspto.gov*

Dated: April 14, 2003.

James E. Rogan,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 03–9659 Filed 4–18–03; 8:45 am]

BILLING CODE 3510–16–P

DEPARTMENT OF EDUCATION

[CFDA No. 84.305P]

Institute of Education Sciences; English Language Acquisition Evaluation Program; Notice of Applicable Program Regulations

The following Education Department General Administrative Regulations apply to this program: 34 CFR parts 74, 77, 80, 81, 82, 85, 86 (part 86 applies only to Institutions of Higher Education), 97, 98, and 99. In addition 34 CFR part 75 is applicable, except for the provisions in 34 CFR 75.100, 75.101(b), 75.102, 75.103, 75.105, 75.109(a), 75.200, 75.201, 75.209, 75.210, 75.217, 75.219 (except that the Department may select an application for funding without following the applicable procedures if the application was evaluated under the preceding competition of the program; the application rated high enough to deserve selection; and the application was not selected for funding because the application was mishandled by the Department), 75.220 and 75.230.

FOR FURTHER INFORMATION CONTACT: Susan Sanchez, U.S. Department of Education, 80 F Street, NW., Washington, DC 20208–5501. Telephone: (202) 208–7061, or via Internet: *Susan.Sanchez@ed.gov*.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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Program Authority: 20 U.S.C. 9501 *et seq.* (the ''Education Sciences Reform Act of 2002'', Title I of Public Law 107–279, November 5, 2002).

Dated: April 16, 2003.

Grover J. Whitehurst,

Director, Institute of Education Sciences.

[FR Doc. 03–9708 Filed 4–18–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.336B and 84.336D]

Office of Postsecondary Education; Teacher Quality Enhancement Grants Program—Partnership Grants; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2003

Purpose of Program: To provide grants to promote improvements in the quality of new teachers, with the ultimate goal of increasing student achievement in the nation's K–12 classrooms. Partnership grants are designed to promote significant improvements in teacher education by strengthening the vital role of K–12 educators in the design and implementation of effective teacher education programs, and by increasing collaboration among these educators and institutions of higher education, and departments of arts and sciences.

Eligible Applicants: Partnerships which include, at a minimum:

1. An institution of higher education with an eligible teacher preparation program;
2. A school of arts and sciences; and
3. A high-need local educational agency (LEA).

A partnership may include additional entities, as defined in the Higher Education Act of 1965, as amended (HEA), title II, part A, section 203(b). Terms 2 and 3 are defined in section 201 of the HEA and in the application package.

Note: A partnership that received a previous grant under this program is not eligible for a FY 2003 grant.

Applications Available: April 30, 2003.

Deadline for Transmittal of Applications: June 2, 2003, for pre-applications; August 8, 2003, for full applications.

Note: The Department will invite full applications from those partnerships whose pre-applications ranked highly enough to be competitive at the full application stage. Only those partnerships who are invited to submit a full application will be eligible to receive a grant award.

Deadline for Intergovernmental Review: August 4, 2003.

Available Funds: $4,234,000.

Estimated Range of Awards: $750,000–$1,250,000 per year.

Estimated Average Size of Awards: $1.058 million per year.

Estimated Number of Awards: 4.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

Page Limit: Pre-applications: The application narrative is where you, the applicant, address the selection criteria reviewers use to evaluate your application.

If you are submitting a pre-application for a Partnership grant, you must limit your narrative to the equivalent of no more than 10 pages and your estimated budget information to the equivalent of no more than three pages.

For the pre-application narrative and budget information the following standards apply:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text, including titles, headings, quotations, references, and captions.
- Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).
- For tables, charts, or graphs also use a font that is either 12-point or larger or no smaller than 10 pitch.

Our reviewers will not read any of the specified sections of your application that—

- Exceed the page limit if you apply these standards; or
- Exceed the equivalent of the page limit if you apply other standards.

Full Applications: You must limit your narrative to the equivalent of no more than 50 pages. In addition, you must limit your accompanying work plan to the equivalent of no more than 10 pages, your budget narrative to the equivalent of no more than 10 pages, and your evaluation plan to the equivalent of no more than 5 pages.

For the full application narrative, budget narrative, work plan, and evaluation plan the following standards apply:

• A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.

• Double space (no more than three lines per vertical inch) all text, including titles, headings, quotations, references, and captions.

• Use a font that is either 12-point or larger or no smaller than 10 pitch (characters per inch).

• For tables, charts, or graphs also use a font that is either 12-point or larger or no smaller than 10 pitch.

Our reviewers will not read any of the specified sections of your application that—

• Exceed the page limit if you apply these standards; or

• Exceed the equivalent of the page limit if you apply other standards.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 85, 86, 97, 98 and 99. (b) The regulations for this program in 34 CFR part 611.

Priority: This competition focuses on projects designed to meet the priority in the regulations for this program (34 CFR 611.25).

The Secretary provides a competitive preference on the basis of how well the project includes a significant role for private business in the design and implementation of the project.

Under 34 CFR 75.105(c)(2)(i) we award up to an additional 10 points to an application, depending on how well the application meets this priority.

Special Funding Considerations: The program regulations (34 CFR part 611.3(c)) provide that when two or more applicants are ranked equally for the last available award, the Secretary selects the applicant whose activities will focus (or have most impact) on LEAs and schools located in one (or more) of the Nation's Empowerment Zones and Enterprise Communities.

For Applications and Further Information Contact: Luretha Kelley, Teacher Quality Program, Office of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., Room 7101, Washington, DC 20006–8525. Telephone: (202) 502–7878, Fax: (202) 502–7864 or via Internet: *Luretha.Kelley@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under *For Applications and Further Information Contact.* However, the Department is not able to reproduce in an alternative format the standard forms included in the application package.

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Program Authority: 20 U.S.C. 1021 *et seq.*

Dated: April 15, 2003.

Sally L. Stroup,

Assistant Secretary, Office of Postsecondary Education.

[FR Doc. 03–9709 Filed 4–18–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Request for Information

AGENCY: National Energy Technology Laboratory, Department of Energy (DOE).

ACTION: Notice of request for information on the department's plan to implement FutureGen.

SUMMARY: On February 27, 2003, President Bush announced that the United States would sponsor a $1 billion, 10-year demonstration project to create the world's first coal-based, zero emissions power plant to produce electricity and hydrogen. As part of this announcement, Secretary of Energy Spencer Abraham unveiled plans for FutureGen—one of the boldest steps our Nation has taken toward a pollution-free energy future. This project will establish the technical and economic feasibility of producing electricity and hydrogen from coal—our lowest cost and most abundant domestic energy resource—while capturing and sequestering the carbon dioxide generated in the process. FutureGen will showcase cutting-edge technologies that can virtually eliminate environmental concerns associated with coal utilization. The ultimate success of FutureGen depends on acceptance of the concept of sequestration by the industries that will be most heavily impacted by potential future limitations on carbon emissions. Thus, the Department plans to noncompetitively enter into a cooperative agreement with a Consortium led by the coal-fired electric power industry and the coal production industry. Under the guidance of a Government Steering Committee, this Consortium will be responsible for the design, construction and operation of the FutureGen plant, and for the monitoring, measuring, and verifying of carbon dioxide sequestration. The members of the Consortium shall collectively own and produce at least one-third of the Nation's coal and at least one-fifth of its coal-fueled electricity. In addition to collectively owning and producing a large fraction of the Nation's coal and electricity, the Consortium is expected to: (a) Be geographically diverse by including both eastern and western domestic coal producers and coal-fueled electricity generators; and, (b) be resource diverse by including producers and users of the full range of coal types. The public's interest is best served by having this broad cross section of the coal and coal-fueled electricity industries involved in this project. The Department will require that the Consortium use fair and open competition to select the host site; engineering, design, and construction services; and major equipment modules.

DATES: Comments shall be received no later than June 16, 2003 at the address below. Confidential information contained within a submission should be identified and marked accordingly. The Department will protect confidential information to the extent permitted by law.

ADDRESSES: The Department seeks public comment regarding its plans for implementing FutureGen. Groups who collectively own and produce at least one-third of the Nation's coal and one-fifth of its coal-based electricity, and who are interested in establishing a Consortium, are invited to submit comments of no more than ten pages that include the group's (a) name, telephone number, mailing address, and e-mail address; (b) interest in participating in FutureGen; and, (c) technical and financial ability and commitment to pursue the FutureGen project including qualifications of key team members.

In addition, any other interested party is invited to submit no more than five

pages of comments on any aspect of the Government's proposed plans (as described herein) to implement FutureGen. Such submissions should include the party's name, telephone number, mailing address, and e-mail address. In formulating the path forward for implementing FutureGen, the Department will consider all comments received. It will also prepare a report containing a synopsis of comments. The report will be posted on the Fossil Energy Web site.

Interested parties may submit their comments by e-mail or by regular mail to: Keith R. Miles, U.S. Department of Energy, National Energy Technology Laboratory, PO Box 10940, MS 921–107, Pittsburgh, PA 15236, E-mail Address: *miles@netl.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Keith R. Miles, U.S. Department of Energy, National Energy Technology Laboratory, PO Box 10940, MS 921–107, Pittsburgh, PA 15236, E-mail Address: *miles@netl.doe.gov.*

SUPPLEMENTARY INFORMATION: An affordable, reliable, and environmentally sound supply of electricity is critical to our Nation's future. Coal provides over half of our Nation's electricity. However, coal-fired power plants also emit one-third of the U.S. anthropogenic carbon dioxide emissions. As a key step towards making significant reductions in these emissions, and preserve the security and cost benefits of using coal to produce electricity for our Nation, it is necessary to validate the engineering, economic, and environmental viability of coal-based systems to produce electricity with zero emissions. This is one of the key objectives of FutureGen.

Another FutureGen objective is to produce coal-based hydrogen with zero emissions. The production of hydrogen supports the President's Hydrogen Initiative. Using our abundant, readily available, low-cost coal to produce hydrogen—an environmentally superior transportation fuel—would help ensure America's energy security. Thus, FutureGen will also provide a zero emissions technology option for the transportation sector—a sector that accounts for another one-third of our Nation's anthropogenic carbon dioxide emissions.

The Department envisions that the FutureGen project will employ coal gasification technology to co-produce electricity and hydrogen. The size of the plant will nominally be 275 MW equivalent electricity output.

Power generation and hydrogen production will be integrated with the capture of carbon dioxide and its sequestration in deep underground geologic formation(s). The project will seek to sequester carbon dioxide emissions at an operating rate of one million metric tons (or more) of carbon dioxide sequestered per year. The project will also work with the appropriate domestic and international communities to establish standardized technologies and protocols for carbon dioxide measuring, monitoring, and verification. The Department anticipates placing separate contracts to independently validate carbon dioxide sequestration.

In addition, the plant will virtually eliminate environmental emissions associated with coal use, specifically nitrogen and sulfur oxides, particulate matter, and mercury. The plant will showcase cutting-edge technologies that can virtually eliminate environmental concerns associated with coal use. This includes establishing beneficial uses for coal utilization by-products from the plant.

The initial FutureGen plant configuration will incorporate cutting edge technologies to address scaling and integration issues for coal-based, zero emissions energy plants. The plant will also be operated as a research facility—it will test and validate additional advanced technologies as they emerge from research programs. These advanced technologies will offer the promise of clean environmental performance, at a reduced cost and increased reliability. Thus, FutureGen will be designed and constructed with the flexibility to conduct both full scale and slipstream tests of such advanced technology over the entire operational phase of the project. The large scale of FutureGen is driven by the need to adequately validate the engineering, economic, and environmental viability of coal-based, zero emissions technologies.

Global acceptance of the concept of coal-based systems integrated with sequestration technology is a key goal of FutureGen. Broad involvement in the FutureGen project is required to achieve this goal. Although membership of the Consortium will be limited to coal and coal-fueled electricity generation owners and producers, and while equipment and service vendors may participate through a competitive selection process for their goods and services, the Department expects the Consortium to encourage and provide mechanisms for future participation in the project, as appropriate, of interested parties such as state governments, regulators, and the environmental community. The Department also expects the Consortium to be an ''open'' consortium—working to expand its initial membership to one that is inclusive and open to other coal and coal-fueled electricity owners and producers.

The Consortium will be expected to contribute at least a 20 percent industry cost share. Terms and conditions of inclusion of additional domestic and foreign industrial coal producers and coal-fueled electricity generators will be determined by the Consortium. Foreign government participation in FutureGen will be subject to negotiations that are not contrary to the Department's terms and conditions established in its cooperative agreement with the Consortium.

Disclaimer: This Request for Information shall not be construed as a commitment by the Government to award a cooperative agreement at this time.

Issued in Pittsburgh, PA, on April 11, 2003.

Randolph Kesling,

Senior Management and Technical Advisor, Office of Business Logistics.

[FR Doc. 03–9704 Filed 4–18–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–18–001, et al.]

Athens Generating Company, L.P., et al.; Electric Rate and Corporate Filings

April 14, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Athens Generating Company, L.P.; Covert Generating Company, LLC; Harquahala Generating Company, LLC; Millennium Power Partners, L.P.; New GenHoldings

[Docket No. EC03–18–001]

Take notice that on April 10, 2003, Athens Generating Company, L.P., Covert Generating Company, LLC, Harquahala Generating Company, LLC, and Millennium Power Partners, L.P., (collectively, the NEG Companies) each of which is an indirect, wholly-owned subsidiary of PG&E National Energy Group, Inc. (PG&E NEG), and New GenHoldings (which may be referred to hereafter individually as Applicant or jointly as Applicants) tendered for filing, pursuant to section 203 of the Federal Power Act, 16 U.S.C. 824b, and part 33 of the Commission's regulations, 18 CFR part 33, an amended and

restated application for authorization to dispose of jurisdictional facilities. The Applicants state that more specifically, PG&E NEG seeks approval to effectuate an internal corporate reorganization with respect to some or all of the NEG Companies and then transfer all of its ownership interests in the NEG Companies to New GenHoldings that are direct, or indirect, wholly-owned subsidiaries of the lenders to the NEG Companies and/or to their upstream owners.

Comment Date: May 1, 2003.

2. Northern Indiana Public Service Company

[Docket No. ER96–399–004]

Take notice that on April 10, 2003, Northern Indiana Public Service Company (Northern Indiana) filed a revised tariff sheet as part of its FERC Electric Tariff, First Revised Volume No. 5. Northern Indiana states that the revised tariff sheet is submitted to clarify the filing that it made on March 17, 2003, in compliance with the Order issued by the Commission on December 30, 2002.

Northern Indiana states that copies of this filing have been sent to all parties on the Commission's official service list.

Comment Date: May 1, 2003.

3. GenWest, LLC

[Docket No. ER03–352–001]

Take notice that on April 10, 2003, GenWest, LLC, filed an amendment to its application for authority to sell power at market-based rates.

Comment Date: May 1, 2003.

4. Duke Energy Corporation

[Docket No. ER03–481–001]

Take notice that on April 10, 2003, Duke Energy Corporation, on behalf of Duke Electric Transmission, (collectively, Duke) tendered for filing the revised First Amended and Restated Generation Interconnection and Operating Agreement (Restated IOA) between Duke and Rowan County Power, LLC, as the successor in interest to Carolina Power and Light Company in compliance with the Commission's March 1, 2003 letter order.

Comment Date: May 1, 2003.

5. Portland General Electric Company

[Docket No. ER03–733–000]

Take notice that on April 10, 2003, Portland General Electric Company (PGE) tendered for filing an executed Facility Interconnection and Operation Agreement between PGE and SP Newsprint Co., (SP Newsprint). PGE states that the agreement is pursuant to PGE's Open Access Transmission Tariff (OATT), Attachment K, section 6, effective April 2, 2001.

PGE requests a waiver of the Commission's 60-day notice requirement and an effective date of May 12, 2003. PGE also states that a copy of the filing was served upon SP Newsprint and the Oregon Public Utility Commission.

Comment Date: May 1, 2003.

6. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–732–000]

Take notice that on April 10, 2003, Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act, submitted for filing an Interconnection and Operating Agreement among Otter Tail Power Company (Transmission Side) and Otter Tail Power Company (Generation Side).

Midwest ISO states that a copy of this filing was sent to Otter Tail Power Company (Transmission Side) and Otter Tail Power Company (Generation Side).

Comment Date: May 1, 2003.

7. Westar Energy, Inc.

[Docket No. ER03–734–000]

Take notice that on April 10, 2003, Westar Energy, Inc. (Westar) submitted for filing revisions to Sheet No. 133 through Sheet No. 135 of the Open Access Transmission Tariff, FERC Electric Tariff Second Revised Volume No. 5.

Westar states that it proposes to update Schedule 4—Energy Imbalance Service to clarify how customers will be billed or credited when there is a difference between a customer's scheduled and delivered energy. Westar also states that it proposes to set a minimum price of $100 per MWh whenever a customer is billed for service under this schedule.

Westar states that a copy of the filing was served upon the Kansas Corporation Commission.

Comment Date: May 1, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9679 Filed 4–18–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG03–59–000, et al.]

Ely Wind Company, LLC, et al.; Electric Rate and Corporate Filings

April 11, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Ely Wind Company, LLC

[Docket No. EG03–59–000]

Take notice that on April 9, 2003, Ely Wind Company, LLC (Applicant) filed with the Federal Energy Regulatory Commission (Commission) an Application for Determination of Exempt Wholesale Generator Status pursuant to part 365 of the Commission's regulations.

Applicant states that it is developing a wind-powered eligible facility with a capacity of 50 megawatts, which will be located in Ruth, Nevada.

Comment Date: May 2, 2003.

2. Southwestern Electric Power Company

[Docket No. ER02–2313–002]

Take notice that on April 9, 2003, Southwestern Electric Power Company tendered for filing a refund report in compliance with the Commission's Order dated February 25, 2003.

Comment Date: April 30, 2003.

3. American Electric Power Service Corporation

[Docket No. ER03–400–001]

Take notice that on April 7, 2003, the American Electric Power Service Corporation (AEPSC), on behalf of Ohio Power Company (an operating copany of the American Electric Power System), tendered for filing an Amended Interconnection and Operation Agreement between Ohio Power Company and DPC Northeast Power, LLC. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Third Revised Volume No. 6, effective July 31, 2001.

AEP requests an effective date of March 11, 2003. AEPSC states that a copy of the filing was served upon the Public Utilities Commission of Ohio.

Comment Date: April 28, 2003.

4. American Electric Power Service Corporation

[Docket No. ER03–403–001]

Take notice that on April 7, 2003, American Electric Power Service Corporation (AEPSC), on behalf of Indiana Michigan Power Copany (Indiana Michigan), submitted for filing an Amended Interconnection and Operation Agreement between Indiana Michigan Power Company (Indiana Michigan) and South Shore Power, L.L.C., in compliance with the Commission's March 11, 2003, Order, Conditionally Accepting Interconnection Agreement for Filing and Ordering Compliance Filing. The agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff, Third Revised Volume No. 6, effective July 31, 2001.

Indiana Michigan requests an effective date of March 14, 2003. AEPSC states that copies of Indiana Michigan's filing have been served upon the Indiana Utility Regulatory Commission and Michigan Public Service Commission.

Comment Date: April 28, 2003.

5. Public Service Company of New Mexico

[Docket No. ER03–711–000]

Take notice that on April 7, 2003, Public Service Company of New Mexico (PNM) submitted for filing several revised sheets to the PNM Open Access Transmission Tariff (FERC Electric Tariff Second Revised Volume No. 4) to incorporate changes and/or updates to reflect current operating conditions and requirements. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

PNM states that copies of the filing have been sent to all PNM Tariff customers, the New Mexico Public Regulation Commission and the New Mexico Attorney General.

Comment Date: April 28, 2003.

6. Southern Power Company

[Docket No. ER03–713–000]

Take notice that on April 7, 2003, Southern Power Company (Southern Power) tendered for filing seeking acceptance of two market-based Purchased Power Agreements by and between: (i) Georgia Power Company (Georgia Power) and Southern Power for Plant McIntosh Units 10 and 11, dated June 3, 2002 (the McIntosh-Georgia Power PPA), and (ii) Savannah Electric and Power Company (Savannah Electric) and Southern Power for Plant McIntosh Units 10 and 11, also dated June 3, 2002 (the McIntosh-Savannah PPA) (collectively referred to as the McIntosh PPAs). The Agreements provide the general terms and conditions for capacity and associated energy sales from Southern Power to Georgia Power and from Southern Power to Savannah Electric commencing June 1, 2005.

Comment Date: April 28, 2003.

7. Ameren Services Company

[Docket No. ER03–714–000]

Take notice that on April 7, 2003, Ameren Services Company (ASC) tendered for filing an executed Service Agreement for Firm Point-to-Point Transmission Service between ASC and Ameren Energy, Inc. ASC asserts that the purpose of the Agreement is to permit ASC to provide transmission service to Ameren Energy, Inc., pursuant to Ameren's Open Access Transmission Tariff.

Comment Date: April 28, 2003.

8. Avista Corporation

[Docket No. ER03–728–000]

Take notice that on April 9, 2003, Avista Corporation (Avista) submitted Notices of Cancellation of the following rate schedules all of which are netting agreements:

Reliant Energy Services, Inc. (formally NorAm), Rate Schedule No. 252, ConAgra Energy Services, Inc., Rate Schedule No. 253; Chelan County PUD No. 1, Rate Schedule No. 254; Salt River Project, Rate Schedule No. 256; Hafslund Energy Trading, LLC, Rate Schedule No. 258; Tractebel Energy Marketing, LLC, Rate Schedule No. 259; PG&E Trading Power, LP, Rate Schedule No. 261; Idaho Power Company, Rate Schedule No. 262; Statoil Energy Trading, Inc., Rate Schedule No. 264; Duke Energy Trading and Marketing, LLC, Rate Schedule No. 266; City of Santa Clara d/b/a Silicon Valley Power, Rate Schedule No. 273; Benton County PUD, Rate Schedule No. 274; Public Service Company of Colorado, Rate Schedule No. 279; Puget Sound Energy, Inc., Rate Schedule No. 283; PPL Montana, LLC, Rate Schedule No. 284; MIECO, Inc., Rate Schedule No. 285; TransAlta Energy Marketing (US) Inc., Rate Schedule No. 291; Sacramento Municipal Utility District, Rate Schedule No. 292.

Avista seeks all waivers necessary to allow the cancellations to be effective as of March 31, 2003. Avista also states that copies of the filing have been provided to all of the rate schedule Counterparties.

Comment Date: April 30, 2003.

9. Avista Corporation

[Docket No. ER03–729–000]

Take notice that on April 9, 2003, Avista Corporation (Avista) submitted Notices of Cancellation of the following rate schedules all of which are netting agreements: Coral Energy, LLP, Rate Schedule No. 269; American Electric Power Rate Schedule No. 270 Service Corporation, British Columbia Power Rate Schedule No. 280; Exchange Corporation (Powerex), IDACORP Energy, LP, Rate Schedule No. 289.

Avista seeks all waivers necessary to allow the cancellations to be effective as of April 6, 2003. Avista also states that copies of the filing have been provided to all of the rate schedule Counterparties.

Comment Date: April 30, 2003.

10. Southern Company Services, Inc.

[Docket No.ER03–730–000]

Take notice that on April 9, 2003, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively Southern Companies), filed one transmission service agreement under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5 (Tariff)). Specifically, the agreement is a long-term firm point-to-point transmission service agreement for service with Southern Company

Generation and Energy Marketing (regarding OASIS Request No. 322721) (Service Agreement No. 462).

Comment Date: April 30, 2003.

11. PPL Electric Utilities Corporation

[Docket No. ER03–731–000]

Take notice that on April 9, 2003, PPL Electric Utilities Corporation (PPL Electric) filed a Notice of Cancellation of PPL Electric's FERC Electric Tariff Original Volume No. 1, Original Sheets Nos. 1–34 (Tariff) and all service agreements thereunder. PPL Electric requests that the termination be effective on June 7, 2003.

PPL Electric states that Notice of Cancellation has been served on each of the parties to the service agreements under the Tariff.

Comment Date: April 30, 2003.

12. International Transmission Company

[Docket No. OA03–3–000]

Take notice that on April 4, 2003, International Transmission Company tendered for filing with the Federal Energy Regulatory Commission (Commission) its implementation procedures for the standards of conduct pursuant to section 37.4(c) of the Commission's regulations, 18 CFR 37.4(c).

Comment Date: May 6, 2003.

13. Mirant Las Vegas, LLC; Duke Energy Moapa, LLC; GenWest, LLC; Las Vegas Cogeneration II, LLC; Reliant Energy Bighorn, LLC

[Docket No. TX03–1–001]

Take notice that on April 7, 2003, Mirant Las Vegas, LLC, Duke Energy Moapa, LLC, GenWest, LLC, Las Vegas Cogeneration II, LLC and Reliant Energy Bighorn, LLC (collectively, Applicants) tendered for filing a supplement to their application for an order directing the establishment of physical interconnection of facilities pursuant to sections 210 and 212 of the Federal Power Act, 16 U.S.C. 824(i) and (k), and rules 204 and 206 of the Commission's rules of practice and procedure, 18 CFR 385.204 and 385.206 (Supplemental Application).

Applicants request that the Commission issue an order directing the Los Angeles Department of Water and Power (LADWP), Nevada Power Company, the Salt River Project Agricultural Improvement and Power District, and the United States Department of the Interior, Bureau of Reclamation, as co-owners of the McCullough Substation located in southern Nevada, to establish an interconnection, on reasonable terms and conditions, between their transmission systems and the Applicants via a physical connection with the Nevada Power transmission system at the McCullough Substation, and to provide Applicants with transmission credits, or other appropriate compensation, associated with upgrades to the McCullough Substation. The Applicants also request that the Commission consolidate the Application with proceedings in Docket Nos. ER02–1741–000 and ER02–1742–000.

Comment Date: May 1, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. 03–9680 Filed 4–18–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7485–9]

Mobile Source Outreach Assistance Competition Fiscal Years 2003/2004: Solicitation Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Today's notice announces the availability of funding and solicits proposals from State, local, and tribal air pollution control agencies for mobile source-related public education and outreach projects. The funding will be allocated by EPA's Office of Transportation and Air Quality (OTAQ) to the EPA regions for award through the competitive process described in this notice. In order for EPA to streamline its internal processing of selected proposals, this competition will select proposals for both Fiscal Year 2003 and Fiscal Year 2004.

DATES: The deadline for Final Proposals is Monday, July 7, 2003. To allow for efficient management of the competitive process, OTAQ is requesting agencies to submit an informal ''Intent to Apply'' by Monday, May 26, 2003. (Instructions for submitting final proposals and informal ''Intents to Apply'' are found in section X. below.)

ADDRESSES: Addresses for submitting final proposals can be found in section X. below.

FOR FURTHER INFORMATION CONTACT: Susan Bullard, Director of Outreach, USEPA Office of Transportation and Air Quality (OTAQ), 1200 Pennsylvania Avenue, NW., (mail code 6406J), Washington, DC, 20460. Telephone (202) 564–9856; Fax (202) 565–2085. Or e-mail *bullard.susan@epa.gov.*

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This solicitation can also be found on the following EPA Web pages: *www.epa.gov/otaq/rfp* or *www.epa.gov/air/grants_funding.html.*

Deadline for informal ''Intent to Apply''—Monday, May 26, 2003.
Deadline for Receipt of Final Proposal—Monday, July 7, 2003.

Mobile Source Outreach Assistance: Competition 2003/2004: Request for Proposals

Section I. Overview and Deadlines

A. *Overview:* Over the past six years, EPA's Office of Transportation and Air Quality (OTAQ) and EPA's Regional offices have entered into agreements and established partnerships with a number of organizations to (1) provide national support for community-based mobile source public education efforts supporting implementation of the Clean Air Act and the Transportation Equity Act for the 21st Century, (2) encourage responsible choices for organizational and individual actions through public education. OTAQ/Section 105-Funded Outreach Projects are listed on the OTAQ Web site *www.epa.gov/otaq/rfp.htm* and emphasize transportation choices to reduce vehicle miles traveled; education of vehicle owners and drivers of the future; particulate matter related to mobile sources; alternative fuels; car care and the role of the automotive technician; outreach to ethnic populations; environmental justice; and, related projects such as ozone mapping and small engines. EPA's Office of Transportation and Air Quality receives set-aside funds from the State and Tribal Assistance Grants (STAG) account to provide support to community-based mobile source-related outreach projects. This notice solicits proposals for public education and outreach projects which directly support State, local and tribal air management organizations in their efforts to improve air quality from mobile sources. Proposals will be accepted from State, local, and tribal air management agencies which are identified as such under section 302(b) of the Clean Air Act. (*See* definition in section II below.) Interested persons can also obtain copies of this solicitation at no charge by accessing the OTAQ Web site at *www.epa.gov/OTAQ/rfp.htm* or *www.epa.gov/air/grants_funding.html.*

B. What are the deadlines for this competition? In order to efficiently manage the selection process, the Office of Transportation and Air Quality requests that an informal ''Intent to Apply'' be submitted by Monday, May 26, 2003. (Please provide project title or subject and e-mail address for project contact.) An ''Intent to Apply'' simply states in the form of e-mail, phone, or fax that your organization intends to submit a proposal to be received by the deadline. Submitting an ''Intent to Apply'' does not commit an organization to submit a final proposal. Those not submitting an ''Intent to Apply'' may still apply by the deadline. *The deadline for final proposals (original and six copies) is midnight on Monday, July 7, 2003.* The Office of Transportation and Air Quality intends to complete the Evaluation/Selection process in September 2003.

Section II. Eligible Organizations

Who is eligible to submit proposals? According to funding policies associated with the State and Tribal Assistance Grants regulations (STAG funds), proposals can be accepted only from air pollution control agencies as defined under section 302(b) of the Clean Air Act, (for projects to be undertaken which will have replicability to other communities nationally). OTAQ has no discretion over this requirement. Section 302(b) of the Clean Air Act defines ''air pollution control agencies'' as any of the following:

(1) A single State agency designated by the Governor of that State as the single air pollution control agency for purposes of the Act.

(2) An agency established by two or more States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(3) A city, county, or other local government health authority, or, in the case of any city, county or other local government in which there is an agency other than the health authority charged with responsibility for enforcing ordinances or laws relating to the prevention and control of air pollution.

(4) An agency of two or more municipalities located in the same State or in different States and having substantial powers or duties pertaining to the prevention and control of air pollution.

(5) An agency of an Indian tribe.

As Project Managers for these cooperative agreements, EPA's Regional Offices are responsible for confirming that a submitting agency is eligible under the legal definition. Interested air management, non-governmental or related organizations which are *not* air pollution control agencies as defined under section 302(b) of the Clean Air Act are encouraged to create partnerships with eligible organizations. In that situation, the eligible organization would be required to submit the final proposal and serve as the funding recipient if selected.

Section III. Funding Issues

A. What is the amount of available funding? A minimum of $550K. Total funding available will reflect STAG set-aside funds for both FY03 ($550K) and FY 04 (amount to be determined prior to competition selection).

B. How will funds be allocated? The competition process will be managed by OTAQ and selected cooperative agreements will be awarded and managed by EPA's Regional offices and funded through section 105 authority (State and local air pollution control agencies). OTAQ has no discretion over this requirement.

C. Is there a maximum amount for award? Funding from this competition may not exceed $100,000 for the entire project period of the selected proposal. (This amount does *not* include any match which may be required or generated by the eligible organization.)

D. Are matching funds required? Possibly. The Clean Air Act's section 105 grant program contains a cost-sharing requirement for a minimum 40 percent match for the recipient's overall approved section 105 work program costs. If an applicant to this competition is selected to receive an outreach grant, the Federal funds to be awarded should be added to the Federal share of the applicant's existing section 105 grant. If addition of these funds increases the Federal percentage of the new overall section 105 grant amount to greater than 60 percent, then the applicant, in order to receive the outreach assistance, must increase its non-Federal contribution in order to restore the required 40 percent non-Federal minimum contribution. If addition of the outreach funds does not increase the Federal share above 60 percent, then an additional non-Federal match is not required. An air pollution control agency which submits a proposal must include a statement in their proposal indicating that the match could and would be met if their proposal is selected and such a match is required. Organizations unable to meet a required match must be considered ineligible. Organizations unclear as to their matching status are recommended to contact their EPA Regional Grant Coordinator (*see* section XII below).

E. Can funding be used to acquire services or fund partnerships? Yes—subgrants and other procurement services are allowed, provided the recipient follows applicable procurement and sub-grant procedures. Please note that EPA will not be a party to these transactions. Approval of a funding proposal does not relieve recipients of their obligations to compete service contracts, conduct cost and price analyses, and use subgrants only for financial assistance purposes in accordance with subpart B, section .210

of OMB Circular A–133. Please indicate any intent to enter into such agreements in the proposal.

Section IV. Program Emphasis

This program is designed to provide seed money to initiate new projects or advance existing projects that are new in some way (*e.g.* new audiences, new locations, new approaches) rather than grow ongoing projects.

Program Emphasis

—Voluntary measures.
—Particulate matter projects related to mobile sources.
—Commuter choice/best workplaces for commuters initiatives.
—Transportation choices.
—Environmental justice.
—Car care (testing, repair, maintenance).
—On Board Diagnostics (OBD).
—Alternative fuels.
—Involving youth in mobile source issues/environmental education.
—Other mobile source issues (including but not limited to: diesel, heavy duty engines; nonroad engines; air quality index).

Section V. Selection Criteria

A. Primary Project Criteria

—Clearly addresses environmental goals of improved air quality from mobile sources.
—Indicates some level of funding for replication and transfer to other communities.
—Links air quality, public health and calls to action.
—Demonstrates effectiveness of delivery mechanism to reach targeted audience.
—Exhibits clearly-stated and appropriate levels of funding.
—Highlights effectiveness of collaborative activities and partnerships with other stakeholders needed to effectively develop or implement the project.
—Demonstrates national or regional applicability/transferability.
—Indicates how success will be measured and benefits will be demonstrated.
—Reflects potential for sustainability.

B. Other Factors to be Considered

—Innovation.
—Integration with existing/ongoing programs.
—Willingness to coordinate with other OTAQ-funded outreach activities.
—Demonstrated capability of candidate organization to accomplish the goals presented.

C. Proposal Presentation Criteria

—Fully addresses each of the components outlined in section VII (A).
—Action-oriented.
—Clearly-states goals and objectives.
—Reflects reasonable time frames and budget.

Section VI. Proposal Evaluation and Selection

The Evaluation Team is chosen to represent a full range of mobile source and EPA program expertise. In addition, each EPA Regional office is given the opportunity to review those proposals generated by eligible organizations within that Region. The Evaluation Team will base its evaluation solely on the criteria referenced in this notice. Completed evaluations will be forwarded for further consideration to a Selection Committee representing OTAQ senior managers and Regional representatives who are responsible for final selection. To ensure equity and objectivity throughout the process, the OTAQ Program Contact (listed below) and staff who facilitate the process and participate in pre-application assistance, do not serve as members of either the Evaluation Team or the Selection Committee.

Section VII. Proposals

A. What must be included in the proposal? Proposals should be approximately 5–7 pages in length, not including the cover letter (*please do not include binders or spiral binding*) and must include the following. (It is recommended that the proposal conform to the outline below to ensure that all components are addressed.) *A copy of the cover letter should be attached to each copy to be submitted.*

(1) Project contact(s) (*must provide name, organization, phone, fax, and e-mail*) An e-mail address is essential in order to ensure OTAQ's ability to quickly reach all applicants with important and timely information.

(2) Clear and accurate statement of amount being requested. (No project will receive funding from this competition in an amount to exceed $100,000.)

(3) Brief statement that the candidate organization is defined as an air pollution control agency under section 302(b) of the Clean Air Act.

(4) Statement that any required match will be met.

(5) Statement of project background/objectives highlighting relationship to improving air quality from mobile sources.

(6) Detailed project summary—description of specific actions to be undertaken.

(7) Projected time frame for project from initiation through completion.

(8) Associated deliverables to be developed and funded through the agreement.

(9) Explanation of project benefits.

(10) Detailed explanation of how project outcomes will be designed and funded for replication in other communities.

(11) Description of collaborative activities and partnerships with other stakeholders.

(12) Description of measures of program/project success.

(13) Detailed budget estimate. (Clearly explain how funds will be used, including estimated cost for each primary task. It is helpful if the requested amount is presented in round numbers.) Budget estimates must reflect funding for participation in the annual Communities in Motion Workshop.

B. Will 2-year proposals be considered? Yes. If a proposal with a 2-year project period is submitted, OTAQ requires that the budget and cost estimate be designed to indicate what will be accomplished in each of the first and second years. The total for the funding from this competition is not to exceed a total of $100,000, even if the project will be undertaken over a 2-year period.

C. May an eligible organization submit more than one proposal? An organization may submit more than one proposal *only if* the proposals are for different projects.

D. May an eligible organization resubmit a proposal which was previously submitted to the Mobile Source Outreach Assistance Competition, but was not selected? Yes. The proposals received by OTAQ in previous competitions were generally of very high quality. Clearly, all proposals of merit could not be selected due to limited resources available.

E. May an eligible organization submit a proposal for this fiscal year, even if it were previously awarded funding under this program? Yes. Applicants awarded funding in previous competitions may submit new proposals to fund a different project. This program is intended to provide seed money to initiate new projects or advance existing projects that are new in some way (*e.g.,* new audiences, new locations, new approaches).

F. Does this funding expire? No. State and Tribal Assistance Grants (STAG) for environmental programs remain available until expended (''no-year money'').

G. Ineligible proposals. Proposals will be determined to be ineligible if:

(1) The candidate organization is not currently defined as an air pollution control agency under section 302(b) of the Clean Air Act; (2) a required match could not be met; (3) the proposal is incomplete (proposals must address each and every component outlined in section VII (N); or (4) the proposal is received after the deadline.

Section VIII. OTAQ/Section 105 Funded Outreach Projects

Since this competition is designed to fund new projects (rather than duplicating or growing existing programs), potential candidate organizations are recommended to visit the OTAQ web site to identify representative projects already being funded. The item, entitled ''OTAQ/Section 105 Funded Outreach Projects,'' can be found at *www.epa.gov/otaq/.* Click on ''Recent Additions'' to find a brief sketch of representative projects funded to date through the Office of Transportation and Air Quality, either with section 105 funding (indicated by year of funding) or projects that are intended to be national in scope, supported by OTAQ program funding (indicated by an asterisk ''*'').

Note: Some Web sites listed by funded organizations provide helpful information on a variety of air quality efforts being undertaken by the funded organization.

Section IX. Other Items of Interest

Is there other information I should have before applying? Yes.

—Submission of an Intent to Apply or a final proposal does not guarantee funding.
—Supplementary information, including letters of recommendation, will be retained in the files, but will not be reviewed by the evaluators.
—Only those organizations *selected* will be required to submit a complete ''Application for Federal Assistance and Budget Information'' (SF 424 and SF 424A) to the appropriate EPA Regional office.

Section X. How To Apply

How do I apply?

Informal ''Intents to Apply'' may take the form of e-mail, fax or phone call to the EPA Program Contact listed below. Include organization, contact, phone, e-mail and project title/subject (if known at time of Intent). *Please submit informal ''Intents To Apply'' by Monday, May 26, 2003.*

To be considered eligible, completed original proposals must be date-stamped (postmarked or dated by overnight express) on or before midnight, Monday, July 7, 2003. (Original + 6, including cover letters on copies—no binders, spiral binding or supplemental materials please!)

Please pay special attention to the distinction in addresses for regular mail and overnight or in-person delivery.

Via regular mail to: Susan Bullard, Director of Outreach, U.S. EPA Office of Transportation and Air Quality, 1200 Pennsylvania Avenue, NW., Mail Code 6406J, Washington, DC 20460.

(Please note that, in the face of circumstances beyond the agency's control in Washington, DC, it may take significantly longer than expected for regular mail to reach the Office of Transportation and Air Quality.)

Express mail which is to be delivered in-person (FedEx, UPS, Airborne, etc.) must leave the sender and be dated by no later than midnight on Monday, July 7, 2003, and should be delivered to the following address: Susan Bullard, Director of Outreach, U.S. EPA Office of Transportation and Air Quality, 501 Third Street, NW., Room 5304D, Washington, DC 20001, (202) 564–9856, (202) 564–8991 (backup number for expressed proposals only).

Note: Proposals e-mailed or faxed *will serve only as a placeholder,* and *must* be followed by a hard copy original and 6 copies postmarked/date stamped no later than the deadline. If no original is received which meets the deadline, the proposal will not be considered.

Deadline for Completed Final Proposals

Date stamped (postmarked or express mail dated) no later than midnight on Monday, July 7, 2003.

SECTION XI. EPA REGIONAL SECTION 105 GRANT COORDINATORS

Region 1 (Boston)	Paul Bryan	617–918–1673
Region 2 (New York)	Marlon Gonzales	212–637–3769
Region 3 (Philadelphia)	Russ Bowen	215–814–2057
Region 4 (Atlanta)	Todd Rinck	404–562–9062
Region 5 (Chicago)	Robert Miller	312–353–0396
	Diane Nelson	312–886–2929
Region 6 (Dallas)	Rexene Hanes	214–665–2726
Region 7 (Kansas City)	Mark Smith	913–551–7876
Region 8 (Denver)	Marisa Mcphilliamy	303–312–6965
Region 9 (San Francisco)	Valerie Cooper	415–947–4103
Region 10 (Seattle)	David Debruyn	206–553–4218

Section XII. OTAQ Program Contact

Susan Bullard, Director of Outreach, EPA Office of Transportation and Air Quality (OTAQ), 1200 Pennsylvania Avenue, NW., (Mail Code 6406J), Washington, DC 20460, (Phone) 202/564–9856, (Fax) 202/565–2085, *bullard.susan@epa.gov.*

Margo Tsirigotis Oge,

Director, Office of Transportation and Air Quality.

[FR Doc. 03–9744 Filed 4–18–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0119; FRL–7301–6]

Cyprodinil; Notice of Filing a Pesticide Petition to Establish a Tolerance for a Certain Pesticide Chemical in or on Food

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by docket ID number OPP–2003–0119, must be received on or before May 21, 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: Shaja R. Brothers, Registration Division

(7505C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–3194; e-mail address: *brothers.shaja@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 111)
- Animal production (NAICS 112)
- Food manufacturing and pesticide manufacturing (NAICS 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. *EPA Docket*. EPA has established an official public docket for this action under docket ID number OPP–2003–0119. 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/*.

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. 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.

Certain types of information will not be placed in 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 on 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 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.

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–2003–0119. 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–2003–0119. 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) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID number OPP–2003–0119.

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–2003–0119. 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. Make sure to submit your comments by the deadline in this notice.

7. 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. What Action is the Agency Taking?

EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of a certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: April 15, 2003.

Debra Edwards,

Director, Registration Division, Office of Pesticide Programs.

Summary of Petition

The petitioner's summary of the pesticide petitions is printed below as required by FFDCA section 408(d)(3). The summary of the petitions was prepared by Interregional Research Project Number (IR-4) and represents the view of the petitioner. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

Interrgional Research Project Number (IR-4)

Syngenta Crop Protection, Inc.

PP 2E6447, 2E6461, 2E6485, 3E6529, and 3E6530

EPA has received pesticide petitions (2E6447, 2E6461, 2E6485, 3E6529, 3E6530) from Interregional Research Project Number (IR-4), 681 U.S. Highway #1 South, North Brunswick, NJ 08902 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180, by establishing tolerances for residues of cyprodinil in or on the following raw agricultural commodities:

1. PP 2E6447 proposes the establishment of a tolerance for lychee, longan, rambutan, pulasan, and Spanish lime at 2.0 parts per million (ppm).

2. PP 2E6461 proposes the establishment of a tolerance for carrot at 0.5 ppm.

3. PP 2E6485 proposes the establishment of a tolerance for Brassica, head and stem subgroup 5A at 2.0 ppm, Brassica, leafy greens subgroup 5B at 10.0 ppm, and turnip, greens at 10.0 ppm.

4. PP 3E6529 proposes the establishment of a tolerance for herb subgroup 19A at 10 ppm.

5. PP 2E6530 proposes the establishment of a tolerance for almond, hulls at 8.0 ppm.

EPA has determined that the petitions contain data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petitions. Additional data may be needed before EPA rules on the petitions. This notice includes a summary of the petitions prepared by

Syngenta Crop Protection, Inc., Greensboro, NC 27409.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of cyprodinil is adequately understood for the purpose of the proposed tolerances.

2. *Analytical method.* Syngenta has developed and validated analytical methodology for enforcement purposes. This method (Syngenta Crop Protection Method AG–631B) has passed an Agency petition method validation for several commodities and is currently the enforcement method for cyprodinil. An extensive data base of method validation data using this method on various crop commodities is available.

3. *Magnitude of residues.* Complete residue data to support the requested tolerances for almond, hulls, Brassica, head and stem (Subgroup 5A), Brassica, leafy greens (Subgroup 5B), turnip, greens, herbs (Subgroup 19A), and lychee, longan, rambutan, pulasan, and Spanish lime have been submitted. The requested tolerances are adequately supported.

B. Toxicological Profile

An assessment of toxic effects caused by cyprodinil is discussed in Unit III.A. and Unit III.B. of the **Federal Register** dated June 22, 2001 (66 FR 33478) (FRL–6778–7).

1. *Animal metabolism.* The metabolism of cyprodinil in rats is adequately understood.

2. *Metabolite toxicology.* The residues of concern for tolerance setting purposes is the parent compound. Based on structural similarities to genotoxic nucleotide analogs, there was concern that the pryimidine metabolites (CGA–249287, NOA–422054) may be more toxic than the parent compound. However, EPA's review indicates similar results in acute oral and mutagenicity studies with both the parent compound and the CGA–249287 metabolite. EPA concluded that the toxicity of the CGA–249287 and NOA–422054 metabolites is no greater than that of the parent, conditional on submission and review of confirmatory data of an acute oral toxicity study and bacterial reverse mutation assay for the NOA–422054 metabolite. Although, the metabolites CGA–232449 and CGA–263208 were determined to be of potential toxicological concern, there are not expected to be more toxic than cyprodinil per se.

3. *Endocrine disruption.* Cyprodinil does not belong to a class of chemicals known or suspected of having adverse effects on the endocrine system. Developmental toxicity studies in rats and rabbits and a reproduction study in rats gave no indication that cyprodinil might have any effects on endocrine function related to development and reproduction. The chronic studies also showed no evidence of a long-term effect related to the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure.* A Tier III acute and chronic dietary exposure evaluation was made using the Dietary Exposure Evaluation Model (DEEM™), version 7.76 from exponent. All consumption data for these assessments were taken from the USDA's Continuing Survey of Food Intake by Individuals (CSFII) with the 1994–96 consumption data base and the Supplemental CSFII children's survey (1998) consumption data base. These exposure assessments included all registered uses and pending uses on watercress, bushberries, caneberries, juneberries, ligonberries, pistachios, and salal.

i. *Food—a. Acute exposure.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. EPA has not conducted an acute dietary risk assessment since no toxicological endpoint of concern was identified during the review of the available data.

b. *Chronic exposure.* Percent of crop treated values were estimated based upon economic, pest and competitive pressures. The values used in these assessments were: (Almonds, pome fruits, stone fruits and grapes), 100%; onions 9%; strawberries 42%; watercress, 95%; berries, 13%; pistachios, herbs, 80%; crop group 5A and 5B, carrots, turnip, greens, lychee, longan and Spanish lime, 10%.

ii. *Drinking water.* Estimated Environmental Concentrations (EECs) of cyprodinil in drinking water were determined by EPA. EPA groundwater model Screening Concentration in Groundwater (SCI-GROW) was used to determine acute and chronic estimated environmental concentrations in ground water and the Agency's surface water model, EPA's pesticide root zone model/exposure analysis modeling system (PRZM/EXAMS) was used to determine acute and chronic EECs estimated environmental concentrations in surface water. Based on the model outputs, the EEC cyprodinil are 0.04 parts per billion (ppb) for acute and chronic exposure to ground water and 32 ppb and 6 ppb for acute and chronic exposure, respectively, to surface water.

2. *Non-dietary exposure.* There is a potential residential post-application exposure to adults and children entering residential areas treated with cyprodinil. Since the Agency did not select a short-term endpoint for dermal exposure, only intermediate dermal exposures were considered. Based on the residential use pattern, no long-term post-application residential exposure is expected.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' EPA does not have, at this time, available data to determine whether cyprodinil has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. For the purposes of this tolerance action, EPA has not assumed that cyprodinil has a common mechanism of toxicity with other substances.

E. Safety Determination

The chronic dietary exposure analysis (food only) showed that exposure from all established and proposed cyprodinil uses would be 7.48% of the chronic reference dose (cRfD) for the most sensitive subpopulation, children 1–2 years old. EPA has determined that reliable data support using the standard margin of exposure (MOE) and uncertainty factor (100 for combined interspecies and intraspecies variability) for cyprodinil and that an additional safety factor of 10 is not necessary to be protective of infants and children.

Acute Drinking Water Levels of Comparison (DWLOC) were calculated based on an acute populated adjusted dose (aPAD) of 1.5 milligrams/kilogram/day. For the acute assessment, the females (13–50 years) subpopulation generated an acute DWLOC of approximately 44,600 ppb. The acute EEC of 32 ppb is considerably less than 44,600 ppb. For the chronic assessment, the children 1–2 years old subpopulation generated the lowest chronic DWLOC of approximately 280 ppb. Thus, the chronic DWLOC of 280 ppb is considerably higher than the chronic EEC of 6 ppb.

Syngenta has considered the potential aggregate exposure from food, water and non-occupational exposure routes and concluded that aggregate exposure is not expected to exceed 100% of the chronic reference dose and that there is a reasonable certainty that no harm will result to infants and children from the aggregate exposure to cyprodinil.

F. International Tolerances

There are no Codex maximum residue levels established for cyprodinil.

[FR Doc. 03–9750 Filed 4–18–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPPT–2003–0019; FRL–7304–2]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 11, 2003 to March 28, 2003, consists of the PMNs and the TMEs both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

DATES: Comments identified by the docket ID number OPPT–2003–0019 and the specific PMN number or TME number, must be received on or before May 21, 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: Barbara Cunningham, Director, Environmental Assistance Division, Office of Pollution Prevention and Toxics (7408M), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; e-mail address: *TSCA-Hotline@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. 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 OPPT–2003–0019. 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 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 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. 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.

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.1. 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 and specific PMN number or TME 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 OPPT–2003–0019. 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 *oppt.ncic@epa.gov*, Attention: Docket ID Number OPPT–2003–0019 and PMN Number or TME Number. 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: Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

3. *By hand delivery or courier*. Deliver your comments to: OPPT Document Control Office (DCO) in EPA East Building Rm. 6428, 1201 Constitution Ave., NW., Washington, DC. Attention: Docket ID Number OPPT–2003–0019 and PMN number or TME number. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 564–8930.

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 technical 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 notice 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 and the specific PMN number you are commenting on in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Why Is EPA Taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from February 11, 2003 to March 28, 2003, consists of the PMNs and the TMEs both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. Receipt and Status Report for PMNs and TMEs

This status report identifies the PMNs and TMEs pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II. to access additional non-CBI information that may be available.

In Table I of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 112 PREMANUFACTURE NOTICES RECEIVED FROM: 02/11/03 TO 03/28/03

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0335	02/11/03	05/12/03	Solutia	(S) Resin for industrial ultraviolet coatings	(G) Acrylate and urethane modified polyether
P–03–0340	02/13/03	05/14/03	Crompton Corporation	(G) Catalyst	(G) Transition metal complex
P–03–0341	02/13/03	05/14/03	CBI	(G) Base resin for ultraviolet light and electron beam cuarable formulations	(G) Functional alcohol, polymer with ipdi, 2-hydroxyethyl acrylate-blocked
P–03–0342	02/13/03	05/14/03	CBI	(G) Base resin for ultraviolet light and electron beam curable formulations	(G) Functional alcohol, polymer with tdi, 2-hydroxymethyl acrylate-blocked
P–03–0343	02/13/03	05/14/03	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–03–0344	02/13/03	05/14/03	CBI	(G) Open, non-dispersive use	(G) Acrylic polymer
P–03–0345	02/13/03	05/14/03	CBI	(G) Petroleum prouct additive	(G) C_4 by-products fraction
P–03–0346	02/13/03	05/14/03	CBI	(G) Petroleum prouct additive	(G) $C_4$4 by-products fraction
P–03–0347	02/13/03	05/14/03	CBI	(G) Petroleum product additive	(G) $C_4$4 by-products fraction
P–03–0348	02/14/03	05/15/03	CBI	(G) Additive for polymer formulations	(G) Condensation polymer of anhydride and polyol
P–03–0349	02/14/03	05/15/03	CBI	(G) Additive for polymer formulations	(G) Condensation polymer of anhydride and polyol
P–03–0350	02/14/03	05/15/03	CBI	(G) Additive for polymer formulations	(G) Condensation polymer of anhydride and polyol
P–03–0351	02/14/03	05/15/03	CBI	(G) Additive for polymer formulations	(G) Condensation polymer of anhydride and polyol
P–03–0352	02/14/03	05/15/03	CBI	(G) Additive for polymer formulations	(G) Condensation polymer of anhydride and polyol
P–03–0353	02/14/03	05/15/03	CBI	(G) Additive for polymer formulations	(G) Condensation polymer of anhydride and polyol
P–03–0354	02/13/03	05/14/03	CBI	(G) Open non-dispersive	(G) Phenylaldol
P–03–0355	02/14/03	05/15/03	CBI	(G) Lubricant additive	(G) Fatty acid triester
P–03–0356	02/21/03	05/22/03	Dow Agro Sciences	(G) Process intermediate	(G) Halogenated substituted mercaptophenyl alkyl ether
P–03–0357	02/19/03	05/20/03	CBI	(G) Polymer catalyst (contained use)	(G) Transition metal complex
P–03–0358	02/19/03	05/20/03	Aceto Corporation	(S) Photopolymerisation initiator for for free radical ultraviolet radiation uring sytems; photopolymerisation sensitizer for cationic ultraviolet radiation curing systems	(S) 1-Chloro-4-propoxy thioxanthone
P–03–0359	02/21/03	05/22/03	UCB Chemicals Corporation	(S) Resin for industrial ultraviolet coatings	(G) Modified epoxy acrylate
P–03–0360	02/21/03	05/22/03	CBI	(S) Clear coating for wood (diy); industrial wood coating	(G) Polyester polyurethane dispersion
P–03–0361	02/21/03	05/22/03	International Specialty Products	(S) Component of coatings for digital printing paper	(S) 2-propenoic acid, 2-methyl-, 2-hydroxyethyl ester, polymer with n-[3-(dimethylamino)propyl]-2-methyl-2-propenamide and 1-ethenylhexahydro-2h-azepin-2-one, 2,2′-azobis[2-methylbutanenitrile]-initiated
P–03–0362	02/21/03	05/22/03	Cytec Industries - Toxicology and Product Regulatory Compliance Department	(G) Sulfide mineral processing reagent	(G) Thionocarbamate derivative or modified thionocarbamate
P–03–0363	02/21/03	05/22/03	Dow Agro Sciences	(G) Process intermediate	(G) Substituted aminotriazolopyrimidine
P–03–0364	02/21/03	05/22/03	Dow Agro Sciences	(G) Process intermediate	(G) Halogenated substituted mercaptophenol
P–03–0365	02/21/03	05/22/03	Dow Agro Sciences	(G) Process intermediate	(G) Halogenated substituted benzenesulfonyl chloride
P–03–0366	02/21/03	05/22/03	BASF Corporation	(S) Gasoline additive	(G) Alkoxylated aliphatic alcohol
P–03–0367	02/21/03	05/22/03	CBI	(G) Oxidation catalyst	(G) Amino ketal
P–03–0368	02/25/03	05/26/03	CBI	(S) Paper colorant	(G) Copper phthalocyanine complex

I. 112 PREMANUFACTURE NOTICES RECEIVED FROM: 02/11/03 TO 03/28/03—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0369	02/24/03	05/25/03	WSP Chemicals And Technology, LLC	(S) Oilfield down hole cement fluid loss additive	(S) 1-propanesulfonic acid, 2-methyl-2-[(1-Oxo-2-propenyl)amino]-, monosodium salt, polymer with *N,N*-dimethyl-2-propenamide and 2-propenamide
P–03–0370	02/24/03	05/25/03	CBI	(G) PH Control agent in textile applications	(G) Polyol ester
P–03–0371	02/26/03	05/27/03	CBI	(G) Dyestuff for ink	(G) Substituted naphthalenedisulfonic acid azo dye, metal salt
P–03–0372	02/27/03	05/28/03	Crompton Corporation	(G) Site limited raw material	(G) Alkyl hydroperoxide
P–03–0373	02/24/03	05/25/03	CBI	(G) Component of a coating	(G) Poluyurea isocyanate prepolymer
P–03–0374	02/24/03	05/25/03	CBI	(G) Component of a coating	(G) Polyurea isocyanate prepolymer
P–03–0375	02/13/03	05/14/03	CBI	(G) Lubricant additive	(G) Substituted imidoalkylcarboxylic acid
P–03–0376	02/13/03	05/14/03	CBI	(G) Lubricant additive	(G) Substituted imidoalkylcarboxylic acid
P–03–0377	02/13/03	05/14/03	CBI	(G) Lubricant additive	(G) Substituted imidoalkylcarboxylic acid
P–03–0378	02/14/03	05/15/03	CBI	(S) Polyurethane adhesive	(G) Polurethane
P–03–0379	02/27/03	05/28/03	Johnson Polymer	(G) Polymeric coating vehicle	(G) Styrene acrylic copolymer
P–03–0380	02/27/03	05/28/03	Johnson Polymer	(G) Polymeric coating vehicle	(G) Styrene acrylic copolymer
P–03–0381	02/27/03	05/28/03	Johnson polymer	(G) Polymeric coating vehicle	(G) Styrene acrylic copolymer
P–03–0382	02/27/03	05/28/03	Johnson Polymer	(G) Polymeric coating vehicle	(G) Styrene acrylic copolymer
P–03–0383	02/27/03	05/28/03	Johnson Polymer	(G) Polymeric coating vehicle	(G) Styrene acrylic copolymer
P–03–0384	02/27/03	05/28/03	Johnson Polymer	(G) Polymeric coating vehicle	(G) Styrene acrylic copolymer
P–03–0385	03/04/03	06/02/03	Eastman Kodak Company	(G) Chemical intermediate, destructive use	(G) Cyano substituted phenyl sulfonamide
P–03–0386	03/04/03	06/02/03	CBI	(G) Siloxane resin crosslinker additive	(G) Organofunctional polysiloxane
P–03–0387	03/04/03	06/02/03	CBI	(G) Automotive coating	(G) Phthalic polyester
P–03–0388	03/04/03	06/02/03	CBI	(G) Paint and coating additive	(G) Fatty acid amides
P–03–0389	03/04/03	06/02/03	BASF Corporation	(G) Internal mold release	(G) Sorbitan ester with polyisobutenyl carbonic acids and fatty acid esters
P–03–0390	03/04/03	06/02/03	CBI	(S) Spray applied automotive coatings	(G) Amine salt of polyurethane resin
P–03–0391	03/04/03	06/02/03	CBI	(S) Spray applied automotive coatings	(G) Amine salt of polyurethane resin
P–03–0392	03/06/03	06/04/03	CBI	(S) Luminiscent pigment for security printing inks	(G) Anthranilic acid derivative
P–03–0393	03/06/03	06/04/03	UCB Chemicals Corporation	(S) Hardener for water-thinnable paints	(G) Aliphatic polyamine
P–03–0394	03/07/03	06/05/03	CBI	(S) Polymer stabilizer	(S) 1,3,2-dioxaphosphorinane, 2-[2,4-bis(1,1-dimethylethyl)phenoxy]-5-butyl-5-ethyl-
P–03–0395	03/07/03	06/05/03	BASF Corporation	(S) Ultraviolet absorber in thermoplastics	(G) Steric hindered amine, oligomer
P–03–0396	03/07/03	06/05/03	CBI	(G) Dyestuff for ink	(G) Metal complexes of substituted benensulfulfonic acid derivatives
P–03–0397	03/10/03	06/08/03	CBI	(G) Open, non-dispersive (intermediate)	(G) Sulfonyl chloride
P–03–0398	03/10/03	06/08/03	CBI	(G) Material used in fabricating electronic articles; destructive use	(G) Modified hydrocarbylpolysilicate
P–03–0399	03/10/03	06/08/03	CBI	(G) Open, non-dispersive (intermediate)	(G) Dimethoxy pyrimidine
P–03–0400	03/10/03	06/08/03	CBI	(G) Raw material used in the manufacture of products sold for semiconductor applications	(G) Substituted anthracene ester
P–03–0401	03/10/03	06/08/03	Syntroleum Corporation	(S) Synthetic diesel fuel	(S) Fuels, diesel, $C_{8–28}$-alkane branched and linear
P–03–0402	03/10/03	06/08/03	Syntroleum Corporation	(S) Synthetic diesel fuel	(S) Naphtha, gasoline-range, $C_{4–9}$-alkane branched and linear
P–03–0403	03/10/03	06/08/03	Syntroleum Corporation	(S) Fischer-tropsch naphtha	(S) Fuels, jet aircraft, C_7–C_{18}-alkane branched and linear
P–03–0404	03/10/03	06/08/03	Syntroleum Corporation	(S) Fischer-tropsch naphtha	(S) Alkanes, $C_{5–20}$-branched and linear
P–03–0405	03/11/03	06/09/03	CBI	(S) Polyurethane coating	(G) Aqueous polyurethane dispersion
P–03–0406	03/11/03	06/09/03	CBI	(G) Dyestuff for ink	(G) Potassium sodium salt of substituted thiazolesulfonic acid
P–03–0407	03/11/03	06/09/03	CBI	(S) Polyurethane intermediate	(G) Urethane diol
P–03–0408	03/11/03	06/09/03	CBI	(G) Destructive use	(G) Substituted fulvene

I. 112 PREMANUFACTURE NOTICES RECEIVED FROM: 02/11/03 TO 03/28/03—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0409	03/12/03	06/10/03	Color Resources International, Co.	(S) Dye for paper cellulosic fiber application used by paper mills only as sold by Crompton and Knowles (sensient) in U.S.A.	(G) Trisodium salt azo direct dye
P–03–0410	03/14/03	06/12/03	Johnson Polymer	(G) Polymeric coating vehicle	(G) Styrene acrylic copolymer
P–03–0411	03/14/03	06/12/03	Johnson Polymer	(G) Polymeric coating vehicle	(G) Styrene acrylic copolymer
P–03–0412	03/14/03	06/12/03	CBI	(G) Photoresist additive	(G) Halogenated acrylic copolymer
P–03–0413	03/14/03	06/12/03	CBI	(G) Photoresist additive	(G) Halogenated acrylic copolymer
P–03–0414	03/14/03	06/12/03	CBI	(G) Photoresist additive	(G) Halogenated acrylic copolymer
P–03–0415	03/14/03	06/12/03	CBI	(G) Photoresist additive	(G) Halogenated acrylic copolymer
P–03–0416	03/18/03	06/16/03	Bedoukian Research, Inc.	(S) Chemical intermediate	(G) Dimethyl-oxo-carboxylic acid
P–03–0417	03/18/03	06/16/03	CBI	(S) Pvc to pvc bonding	(G) Polyester isocyanate polymer
P–03–0418	03/18/03	06/16/03	CBI	(S) Pvc to pvc bonding	(G) Polyester isocyanate polymer
P–03–0419	03/19/03	06/17/03	CBI	(G) Textile colorant	(G) Substituted cuprate [triazin-hydroxy-alpha o][[(hydroxy-Alpha O) sulphenyl]azo- alpha n1]-methoxyphenyl]azo-alpha n1] naphthalenedisulfonato-, sodium salt
P–03–0420	03/19/03	06/17/03	Algroup Lonza - Lonza Inc.	(S) Polymer additive/adjuvant for: -polymer extrusion; -polymer film formation; anistatic agent for: -polymer films	(G) *N,N*-alkenebis-*N*-fatty acid amide
P–03–0421	03/19/03	06/17/03	OM Group, Inc.	(S) Polyurethane rubber catalyst; pvc heat stabilizer	(S) 9-octadecenoic acid (9z)-, bismuth(3+) salt
P–03–0422	03/19/03	06/17/03	CBI	(S) Resin for spray applied coatings	(G) Olefin-based block copolymer
P–03–0423	03/17/03	06/15/03	PPG Industries, Inc.	(G) Component of coating with open use	(G) Modified polyol
P–03–0424	03/19/03	06/17/03	CBI	(G) Cross-linking agent for thermosetting resin	(G) Amines adduct of epoxy resin
P–03–0425	03/21/03	06/19/03	Crompton Corporation	(G) Catalyst	(G) Transition metal complex
P–03–0426	03/21/03	06/19/03	CBI	(S) Coatings applications	(S) Fatty acids, C_{6-12}, polymers with hexahydro-1,3-isobenzofurandione and trimethylolpropane
P–03–0427	03/21/03	06/19/03	CBI	(G) Unsaturated polyester resin	(G) Dicyclopentadiene polymer with phtalic anhydride, maleic anhydride, ethylene glycol, diethylene glycol, monopropylene glycol
P–03–0428	03/21/03	06/19/03	The Dow Chemical Company	(G) Rigid polyurethane foam for spray construction application rigid polyurethane foam for building panel production	(G) mannich based polyether polyol
P–03–0429	03/21/03	06/19/03	CBI	(G) Unsaturated polyester resin	(G) Epoxy acrylate urethane modified polymer with maliec anhydrid
P–03–0430	03/21/03	06/19/03	CBI	(G) Coating component	(G) Polymer of methylene diphenyl diisocyanate, polyether polyol and a polyester polyol
P–03–0431	03/19/03	06/17/03	CBI	(G) Rubber elastomer for tires, wheels, rolls and other specialty urethane applications	(G) PPD/Polyester prepolymer
P–03–0432	03/25/03	06/23/03	CBI	(S) Binder/tackifier for inks	(G) Hydrocarbon resin
P–03–0433	03/25/03	06/23/03	CBI	(S) Binder/tackifier for inks	(G) Hydrocarbon resin
P–03–0434	03/25/03	06/23/03	CBI	(S) Binder/tackifier for inks	(G) Hydrocarbon resin
P–03–0435	03/25/03	06/23/03	CBI	(S) Binder/tackifier for inks	(G) Hydrocarbon resin
P–03–0436	03/25/03	06/23/03	CBI	(S) Binder/tackifier for inks	(G) Hydrocarbon resin
P–03–0437	03/25/03	06/23/03	CBI	(S) Binder/tackifier for inks	(G) Hydrocarbon resin
P–03–0438	03/19/03	06/17/03	CBI	(G) Additive, open, non-dispersive use	(G) Polyether modified polyurethane urea
P–03–0439	03/19/03	06/17/03	CBI	(G) Additive, open, non-dispersive use	(G) Polyether modified polyurethane urea
P–03–0440	03/26/03	06/24/03	CBI	(G) Open, non-dispersive (resin)	(G) Urethane acrylate resin
P–03–0441	03/26/03	06/24/03	Shell Chemical Company	(G) Components of brake fluid formulation	(S) Oxirane, methyl-, polymer with oxirane, monoethyl ether
P–03–0442	03/26/03	06/24/03	CBI	(S) Coating material, non-dispersive use	(G) Polysiloxazane
P–03–0443	03/26/03	06/24/03	CBI	(G) ADhesive component	(G) Polymeric mdi prepolymer
P–03–0444	03/26/03	06/24/03	CBI	(G) Adhesive component	(G) Polymeric mdi prepolymer

I. 112 PREMANUFACTURE NOTICES RECEIVED FROM: 02/11/03 TO 03/28/03—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–03–0445	03/28/03	06/26/03	CBI	(G) Destructive end-use	(G) 2,5-Furandione, polymer with (substituted)-propene and octadecene (substituted) ester
P–03–0446	03/28/03	06/26/03	CBI	(G) Thermoset polymer component, open nondispersive use	(G) Acrylate, acrylonitrile, butadiene rubber-extended tetra epoxy resin
P–03–0447	03/28/03	06/26/03	CBI	(G) Theromoset polymer component, open nondispersive use	(G) Acrylate, acrylonitrile, butadiene rubber-extended epoxy resin
P–03–0448	03/28/03	06/23/03	CBI	(G) Theromoset polymer component, open nondispersive use	(G) Acrylate, acrylonitrile, butadiene rubber-extended epoxy resin
P–03–0449	03/28/03	06/23/03	CBI	(G) Thermoset polymer component, open nondispersive use	(G) Acrylate, acrylonitrile, butadiene rubber-extended epoxy resin
P–03–0450	03/28/03	06/23/03	CBI	(G) Thermostat polymer component, open nondispersive use	(G) Acrylate, acrylonitrile, butadiene rubber-extended epoxy resin

In table II of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the TMEs received:

II. 1 TEST MARKETING EXEMPTION NOTICES RECEIVED FROM: 02/11/03 TO 03/28/03

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
T–03–01	03/17/03	06/15/03	PPG Industries Inc.	(G) Component of coating with open use	(G) Modified polyol

In Table III of this unit, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

III. 61 NOTICES OF COMMENCEMENT FROM: 02/11/03 TO 03/28/03

Case No.	Received Date	Commencement/ Import Date	Chemical
P–00–0042	03/04/03	05/18/01	(G) N-alkyl-4 alkylaminonaphthalimide
P–00–0043	03/04/03	05/18/01	(G) N-alkyl-4 alkylaminonaphthalimide
P–00–0044	03/04/03	05/18/01	(G) N-alkyl-4 alkylaminonaphthalimide
P–00–1078	02/21/03	01/31/03	(G) Potassium sulfonate
P–01–0298	03/07/03	02/07/03	(G) Substituted propane
P–01–0392	02/25/03	01/24/03	(G) Polyacrylate polymer
P–01–0394	03/04/03	02/10/03	(G) Polyacrylate polymer
P–01–0659	02/13/03	01/30/03	(G) Substituted alkyl ester acid
P–01–0732	02/11/03	01/16/03	(G) Phosphate methacrylate
P–01–0764	02/26/03	02/06/03	(S) Magnesium potassium titanium oxide
P–01–0802	02/27/03	02/18/03	(G) Pyrimidinetrione derivative
P–02–0114	02/21/03	02/07/03	(G) Polymer of alkyl substituted propenoic acid and propenamide with alkyl acrylate
P–02–0217	03/04/03	02/21/03	(G) Fatty acid modified polyester
P–02–0408	03/13/03	02/28/03	(G) Acetamide, substituted alkylamino phenyl azo substituted isoindole
P–02–0409	03/13/03	02/28/03	(G) Acetamide, substituted methoxyalkylamino phenyl azo substituted isoindole
P–02–0413	03/13/03	02/28/03	(G) Substituted alkylamino phenyl azo substituted isoindole
P–02–0457	02/21/03	02/03/03	(G) Oxyalkylpropanoic acid, polymer with dimethylcarbonate, 1,2-ethanediamine, 1,6-hexanediol and 1,1′-methylenebis[4-isocyanatocyclohexane]
P–02–0461	02/26/03	12/16/02	(S) Hexanoic acid, 2-ethyl-, compound with guanidine (1:1)
P–02–0544	02/21/03	10/10/02	(S) Oxirane, methyl-, polymer with alpha-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 5-isocyanato-1-(isocyanatomethyl)-1,3,3-trimethylcyclohexane and oxirane
P–02–0550	03/19/03	01/29/03	(G) Imidazolium salt
P–02–0622	03/18/03	03/04/03	(G) Branched alkenoate
P–02–0629	02/26/03	02/05/03	(G) Substituted amino acid
P–02–0678	03/13/03	02/24/03	(G) Urethane diol
P–02–0705	03/11/03	02/27/03	(S) Sulfuric acid, diethyl ester, compound with nu-[3-(dimethylamino)propyl]-2-methyl-2-propenamide polymer with 1-ethenyl-2-pyrrolidinone, sulfate
P–02–0741	02/11/03	01/21/03	(S) Piperazine, polymer with 1,6-dichlorohexane

III. 61 NOTICES OF COMMENCEMENT FROM: 02/11/03 TO 03/28/03—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–02–0826	02/21/03	12/16/02	(S) Octadecanoic acid, compound with guanidine (1:1)
P–02–0831	03/28/03	02/25/03	(G) Crosslinked alkyl silicone
P–02–0889	03/26/03	03/13/03	(S) Formaldehyde, polymer with 6-phenyl-1,3,5-triazine-2,4-diamine, isobutylated
P–02–0895	03/03/03	02/20/03	(G) Amine salt of carboxylated epoxy ester polymer, with fatty acids and alkyloxylated alkyl ester
P–02–0896	02/19/03	01/30/03	(G) Polyester polyol
P–02–0904	02/21/03	02/06/03	(G) Substituted alkenone
P–02–0909	03/27/03	02/28/03	(G) Aromatic polyester polyol
P–02–0910	03/27/03	02/27/03	(G) Aromatic polyester polyol
P–02–0931	03/05/03	02/17/03	(G) Sodium sulfonate
P–02–0933	03/05/03	02/10/03	(G) Calcium sulfonate
P–02–0935	02/21/03	01/03/03	(G) Polyglycolether-polycarboxylate
P–02–0974	03/13/03	03/06/03	(S) 3-octen-1-ol,propanoate, (3z)-
P–02–0997	02/11/03	01/24/03	(G) Alkaline epoxide amine adduct
P–02–1006	03/19/03	03/03/03	(G) Polyurethane crosslinker
P–02–1026	02/11/03	01/09/03	(G) Modified alkyd resin
P–02–1027	03/13/03	02/26/03	(G) Silylated polyester
P–02–1037	03/05/03	02/12/03	(G) Polyamine acrylate
P–02–1052	03/21/03	03/10/03	(G) Substituted acrylate polymer
P–02–1076	02/27/03	02/05/03	(G) Corn byproduct
P–02–1077	02/27/03	02/01/03	(G) Corn byproduct
P–02–1079	03/28/03	03/24/03	(G) Modified mannich base polyamine
P–02–1088	03/05/03	02/19/03	(G) Alkylphenol mannich
P–03–0003	03/04/03	02/20/03	(S) Soybean oil, reaction products with hydrogenated soybean oil and tri-ethanolamine, di-et sulfate-quaternized
P–03–0038	03/26/03	03/05/03	(G) Copper(11) Complex of sulfonated azo dye
P–03–0040	03/25/03	03/12/03	(G) Polyamidoamine resin grafted with aziridine
P–03–0048	03/05/03	02/07/03	(G) Modified styrenated acrylated methacrylate polymer
P–03–0058	02/27/03	02/19/03	(G) Aromatic polycarbodiimide
P–03–0068	03/13/03	02/16/03	(G) Polyester polyurethane dispersion
P–03–0087	03/05/03	02/24/03	(G) Amines, polyethylenepoly-, reaction products with 5 (or 6)-carboxy-4-hexyl-2-cyclohexene-1-octanoic acid, pentaethylenehexamine and substituted ethyleneamines
P–03–0095	03/12/03	03/07/03	(G) Alkyl methacrylate copolymer
P–03–0097	03/12/03	03/07/03	(G) Alkyl methacrylate copolymer
P–03–0106	03/18/03	02/19/03	(G) Fluoropolyether derivative fluoronated payurethane resin
P–03–0107	03/14/03	03/06/03	(S) 2-propenoic acid, 2-methyl-, polymer with butyl 2-propenoate and ethenylbenzene, sodium salt
P–03–0118	03/27/03	03/09/03	(G) Epoxy modified alkyd resin
P–03–0128	03/11/03	02/24/03	(G) Semiconducting light emitting polyfluorene copolymer
P–03–0142	03/26/03	03/18/03	(G) Metallocene fluoride complex
P–03–0145	03/19/03	03/05/03	(G) Polyurethane
P–94–2209	03/11/03	02/25/03	(G) Fatty acid, ammonium salt
P–96–1626	02/11/03	01/10/03	(S) Mix of: 3-hexene, 1-(1-methoxypropoxy)-(e), 3-hexene, 1-(1-methoxypropoxy)-,(z)
P–97–1039	03/10/03	02/10/03	(G) Modified perfluorinated copolymer
P–98–0899	02/21/03	01/28/03	(S) Fatty acids, C_{18}-unsaturated, dimers, polymers with adipic acid, ethylene-diamine, piperazine and polypropylene glycol diamine
P–99–0301	02/28/03	02/13/03	(G) Organotin compound
P–99–0646	02/11/03	01/28/03	(G) Pentaerythritol, mixed esters with fatty acids, C_{8-9}, branched
P–99–1353	03/11/03	02/25/03	(G) Racemic substituted dimethyl zironocene
P–99–1358	02/21/03	02/07/03	(G) Lithium salt of substituted indene
P–99–1359	02/25/03	02/10/03	(G) Substituted bis-indenylsilane
P–99–1360	03/03/03	02/17/03	(G) Lithium salt of substituted bis-indenylsilane
P–99–1361	03/03/03	02/19/03	(G) Substituted zirconocene dichloride, rac and meso isomer mixture

List of Subjects

Environmental protection, Chemicals, Premanufacturer notices.

Dated: April 14, 2003.

Sandra R. Wilkins,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 03–9749 Filed 4–18–03; 8:45 am]

BILLING CODE 6560–50–S

FARM CREDIT ADMINISTRATION

RIN 3052–AC13

Loan Policies and Operations; Loan Syndication Transactions

AGENCY: Farm Credit Administration.

ACTION: Notice; extension of comment period.

SUMMARY: The Farm Credit Administration (FCA, we, or us) is extending the comment period on our notice concerning loan syndication transactions by Farm Credit System (System) institutions so all interested parties have more time to respond to our questions.

DATES: Please send your comments to the FCA by June 20, 2003.

ADDRESSES: We encourage you to send comments by electronic mail to *reg-comm@fca.gov* or through the Pending Regulations section of FCA's Web site, *http://www.fca.gov.* You may also send comments to Robert E. Donnelly, Acting Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by facsimile to (703) 734–5784. You may review copies of all comments we receive at our office in McLean, Virginia.

FOR FURTHER INFORMATION CONTACT:

Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434.

or

Richard A. Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION: On January 17, 2003, we published a notice in the **Federal Register** seeking public comment on the treatment of loan syndication transactions by Farm Credit System (System) banks and associations. The comment period expired on February 18, 2003. *See* 68 FR 2540, January 17, 2003. We subsequently reopened the comment period until April 21, 2003, to provide interested parties an additional 60 days to comment on this issue. *See* 68 FR 8764, February 20, 2003.

A member of the public has now requested us to extend the comment period for an additional 60 days, until June 20, 2003. In response to this request, we are extending the comment period until June 20, 2003, so all interested parties have more time to respond to our questions. The FCA supports public involvement and participation in its regulatory and policy process and invites all interested parties to review and provide comments on our notice.

Dated: April 16, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–9732 Filed 4–18–03; 8:45 am]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

Market Access Agreement

AGENCY: Farm Credit Administration (FCA).

ACTION: Notice of approval of the draft amended and restated market access agreement.

SUMMARY: The Farm Credit Administration (FCA) announces it has approved the Draft Amended and Restated Market Access Agreement (Draft Restated MAA) proposed to be entered into by all of the banks of the Farm Credit System (System) and the Federal Farm Credit Banks Funding Corporation (Funding Corporation). The Draft Restated MAA sets forth the rights and responsibilities of each of the parties when the condition of a bank falls below pre-established financial performance thresholds.

FOR FURTHER INFORMATION CONTACT:

Samuel R. Coleman, CFA, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434,

or

James M. Morris, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

SUPPLEMENTARY INFORMATION: The FCA published the Draft Restated MAA in the **Federal Register** on January 15, 2003 (68 FR 2037) with a request for public comment. No public comments were received on the Draft Restated MAA.

The Draft Restated MAA is an update to the original Market Access Agreement (MAA) approved by the FCA on August 17, 1994, and published in the **Federal Register** on August 23, 1994 (59 FR 43344). The Draft Restated MAA provides that it will go into effect after certain conditions precedent have been satisfied, including FCA's approval of, and the Farm Credit System Insurance Corporation's (FCSIC) expression of its support for, the Draft Restated MAA. The FCA announces it has approved the Draft Restated MAA.

System banks and the Funding Corporation entered into the original MAA on September 1, 1994, to help control the risk by outlining each party's respective rights and responsibilities in the event the condition of a System bank fell below certain financial performance thresholds. As part of the original MAA, System banks and the Funding Corporation agreed to periodic reviews of the terms of the MAA to consider whether any amendments were appropriate. The Draft Restated MAA updates the original MAA and provides for more stringent financial performance thresholds on each System bank. Both the original MAA and Draft Restated MAA establish financial performance thresholds at which conditions are placed on the activities of a bank or a bank's access to participation in Systemwide and consolidated obligations is restricted.

FCA published the Draft Restated MAA in the **Federal Register** on January 15, 2003, with a request for public comments by February 14, 2003. No comments were received. Having given the public notice and the opportunity to comment, the FCA Board hereby approves the Draft Restated MAA pursuant to sections 4.2(c), 4.2(d) and 4.9(b)(2) of the Farm Credit Act of 1971, as amended. The FCA's approval of the Draft Restated MAA is conditioned on the board of directors of each bank and the Funding Corporation approving the Draft Restated MAA. Neither the Draft Restated MAA, when it becomes effective, nor FCA approval of it shall in any way restrict or qualify the authority of the FCA or the FCSIC to exercise any of the powers, rights, or duties granted by law to the FCA or the FCSIC. Finally, the FCA retains the right to modify or revoke its approval of the Draft Restated MAA at any time.

Dated: April 15, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–9711 Filed 4–18–03; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[EB Docket No. 03–96; FCC 03–75]

NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership (''NOS/ANI'' or ''the Companies''), Order To Show Cause and Notice of Opportunity for Hearing

AGENCY: Federal Communications Commission.

ACTION: Notice; order to show cause and opportunity for hearing.

SUMMARY: This document is an order for NOS/ANI to show cause and give the Companies the opportunity for a hearing before the Commission. The Commission has found that an evidentiary hearing is required to determine whether: (1) The Commission should revoke the operating authority of the Companies, (2) NOS/ANI and its principal should be ordered to cease and desist from any future provision of interstate common carrier services without the prior consent of the Commission, and (3) a forfeiture against

NOS/ANI is warranted and, if so, the amount of the forfeiture.

DATES: Effective April 21, 2003.

FOR FURTHER INFORMATION CONTACT: Donna Cyrus, Attorney Advisor for Telecommunications Consumers Division, Enforcement Bureau (202) 418–7325.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's document regarding EB Docket No. 03–96, released on April 7, 2003. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, 445 12th Street, SW., CY–A257, Washington, DC, 20554, and also may be purchased from the Commission's copy contractor, Qualex International, 445 12th SW., CY–B402, Washington, DC, 20554, (202) 863–2893. It is also available on the Commission's Web site at *http://www.fcc.gov/Daily_Releases/Daily_Business/2003/db0407/FCC–03–68A1.pdf.*

Synopsis

A. Background

1. NOS/ANI are switchless resellers of MCI long distance service. Their customers are primarily small and medium-sized companies. NOS/ANI operates as a common carrier subject to Title II of the Communications Act of 1934, as amended (the ''Act''). Specifically, NOS/ANI currently provides or has provided resale interstate long distance telecommunications services to consumers in numerous states. Under the regulatory scheme established by the Act and the Commission's rules, NOS/ANI is classified as a nondominant interexchange carrier. As such, it is considered to have ''blanket'' authority to operate domestic common carrier facilities within the meaning of section 214 of the Act.

2. It appears that NOS/ANI may have willfully or repeatedly violated sections 201(b) of the Act, by conducting a misleading marketing campaign (the ''Winback Campaign'') apparently designed to improperly induce former customers into authorizing switches back to NOS/ANI. These improper inducements apparently included the Companies contacting their former customers and describing ''problems'' that the customers' chosen carriers were allegedly having in completing the customers' requests to establish new service. NOS/ANI apparently threatened their former customers with loss of service unless they agreed to retain NOS/ANI services as a ''temporary measure.'' Under coercion, some of these customers signed Letters of Agency (''LOAs'') that authorized the Companies to be their preferred carriers, believing that doing so was necessary to keep receiving service while their new preferred carriers completed their switches. The representations of NOS/ANI to their former customers appear to be knowingly false. In reality, the consumers had already been switched to their new preferred carriers and the Companies' marketing campaign was an apparently misleading scheme to trick consumers into returning to the Companies' services.

3. The Enforcement Bureau (the ''Bureau'') initiated this investigation against NOS/ANI after receiving information about the Companies' marketing campaign from Mr. Robert Faulkner, a former NOS/ANI employee. Based upon the information provided by Mr. Faulkner, the Bureau contacted numerous consumers to investigate the allegations. All of the consumers who form the basis of this Order have signed declarations under penalty of perjury stating that NOS/ANI contacted them after they switched to new carriers and told them that their new carriers had not picked up all of their lines, and that as result, their lines were still billing with NOS/ANI. The consumers also state that they were threatened with service disruption if they did not sign new LOAs, which they were told were temporary, but necessary to keep their service running. Some of the consumers were induced into signing the LOAs with the assurance that it was only temporary, while others refused to sign.

4. The Companies' Winback Campaign apparently began in December 2001. As alleged by the consumers, and reflected in audiotapes, the conversations between consumers and NOS/ANI representatives followed a similar script, during which NOS/ANI apparently made numerous false representations to the consumers to induce them to switch their services back to NOS/ANI. NOS/ANI representatives also represented to these consumers that their lines were still billing with the Companies because their new carrier had not yet switched over the services. During the calls made in this marketing campaign, NOS/ANI representatives also advised the consumers that they needed to execute new LOAs until the consumers' new carriers picked up their lines, to ensure continuity of service. Consumers were incorrectly informed that once they signed an LOA with another company to switch their services from NOS/ANI, even though their lines were still being billed by NOS/ANI, NOS/ANI did not ''have authorization to carry the traffic anymore.'' NOS/ANI representatives apparently told consumers that once they signed the Companies' allegedly standard, FCC-approved LOA, with a notation to ''See attached addendum,'' the consumers' service would continue, and all ties with NOS/ANI would be severed as soon as the new carriers picked up their lines.

5. The apparent pattern of these conversations NOS/ANI had with former customers bears a remarkable similarity to a ''Winback Script'' provided by Mr. Faulkner, who attested that the Companies originated the script in December 2001, with top management handing down the script to branch managers and sales representatives in the Winback/Quality Assurance Department. Under the script, the LOA is described as providing temporary authority for NOS/ANI to keep their former customers' service running ''til the new carrier picks them up.''

B. Discussion

6. The consumer complaints and information from a former company executive all suggest a continuous telemarketing campaign, apparently intended for the sole purpose of tricking and threatening former customers into signing new LOAs to switch their services back to NOS/ANI. This practice depicts a callous disregard for the requirements of the Communications Act and section 201(b) in particular. Section 201(b) of the Act, states, in pertinent part, that ''[a]ll charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful.'' Based upon our review of the evidence before us, we find that NOS/ANI's apparent telemarketing campaign evidences apparently willful or repeated violations of section 201(b) of the Act. The Companies' apparent Winback Campaign involving misleading representations to consumers regarding the switch status of their services and threats of service disruption to scare consumers into signing LOAs appears to constitute an ''unjust and unreasonable practice'' within the meaning of section 201(b).

7. Further, there is nothing in the Act or in our rules which supports NOS/ANI's statements to consumers that NOS/ANI would lose authority to carry a consumer's lines once the consumer signs a new LOA with another carrier. In fact, this interpretation of our rules would provide absurd results, as it often is the case that a preferred carrier

change is not executed until days after the consumer has requested the change and the request has been submitted to the local carrier and executed. Under NOS/ANI's theory, every carrier would be providing service without authorization if it did not immediately obtain ''transitional'' or ''temporary'' LOAs from consumers switching from their service to another carrier the moment those consumers requested the change or signed new LOAs with the other carriers. Further, administration in such an event would be nearly impossible, as most consumers do not even contact the old carrier when requesting a change to a different carrier. They simply give authorization to the new carrier. Given that carriers are only notified of lost accounts from the local carriers after the switches have been complete, the old carriers would have no way of knowing from whom to request these temporary LOAs.

8. It necessarily follows, therefore, that an old carrier loses authorization when the carrier change has been completed, and not when the consumer signs a new LOA or otherwise requests a carrier change. That said, NOS/ANI's statements to consumers that new LOAs are needed because consumers' new carriers did not pick up all of their lines are apparently false and misleading and not based upon any reasonable interpretation of the Act or our rules. In the unlikely event that a new carrier does not pick up all of a consumer's lines, NOS/ANI would continue to be the authorized carrier until the lines were switched over notwithstanding the Companies' dubious policy against partial accounts.

9. It appears that NOS/ANI engaged in an unjust and unreasonable marketing practice in apparent violation of the Act. It thus appears that the continued operation of NOS/ANI as a common carrier may not serve the public convenience and necessity within the meaning of section 214 of the Act. We therefore direct the ALJ to determine whether the NOS/ANI blanket section 214 authorization should be revoked. Further, in light of the egregious nature of NOS/ANI's apparently unlawful activities, we direct the ALJ to determine whether specific Commission authorization should be required for NOS/ANI, or the principal or principals of NOS/ANI, to provide any interstate common carrier services in the future.

C. Conclusion

10. In light of the totality of the information now before us, an evidentiary hearing is warranted to determine whether the continued operation of NOS/ANI as a common carrier would serve the public convenience and necessity within the meaning of section 214 of the Act. Further, due to the egregious nature of NOS/ANI's apparently unlawful activities, NOS/ANI will be required to show cause why an order to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission should not be issued. In addition, consistent with our practice in revocation proceedings, the hearing will also address whether a forfeiture should be levied against NOS/ANI for willful and repeated violation of section 201(b) of the Act.

Ordering Clauses

11. Pursuant to sections 4(i) and 214 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 214, the principal or principals of NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership *are directed to show cause* why the operating authority bestowed on NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership pursuant to section 214 of the Communications Act of 1934, as amended, should not be revoked.

12. Pursuant to section 312(b) of the Communications Act of 1934, as amended, 47 U.S.C. 312(b), the principal or principals of NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership *are directed to show cause* why an order directing them to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission should not be issued.

13. The hearing shall be held at a time and location to be specified by the Chief Administrative Law Judge in a subsequent order. The ALJ shall apply the conclusions of law set forth in this Order to the findings that he makes in that hearing, upon the following issues:

(a) To determine whether NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership engaged in a misleading and continuous telemarketing campaign in apparent willful and repeated violation of section 201(b) of the Act's prohibition against unjust and unreasonable practices;

(b) To determine, in light of all the foregoing, whether NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership authorization pursuant to section 214 of the Act to operate as common carriers should be revoked;

(c) To determine whether, in light of all the foregoing, NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership and/or their principals should be ordered to cease and desist from the provision of any interstate common carrier services without the prior consent of the Commission.

14. The Chief, Enforcement Bureau, shall be a party to the designated hearing. Pursuant to section 312(d) of the Communications Act of 1934, as amended, both the burden of proceeding and the burden of proof shall be upon the Enforcement Bureau as to issues (a) through (c) inclusive.

15. To avail themselves of the opportunity to be heard, the principal or principals of NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership, pursuant to section 1.91(c) of the Commission's rules, *shall file* with the Commission within 30 days of the mailing of this Order to Show Cause and Notice of Opportunity for Hearing a *written appearance* stating that a principal or other legal representative from NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership will appear at the hearing and present evidence on the matters specified in the Show Cause Order. If NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership fail to file a written appearance within the time specified, NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership's right to a hearing *shall be deemed to be waived*. In the event that the right to a hearing is waived, the Presiding Judge, or the Chief, Administrative Law Judge if no Presiding Judge has been designated, *shall terminate* the hearing proceeding as to that entity and *certify* this case to the Commission in the regular course of business, and an appropriate order shall be entered.

16. If it is determined that NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership have willfully or repeatedly violated any provision of the Act or the Commission's rules cited in this Order to Show Cause and Notice of Opportunity for Hearing, it shall be further determined whether an Order for Forfeiture shall be issued pursuant to section 503(b) of the Communications Act of 1934, as amended, for the maximum forfeiture amount of $120,000 per day for more than ten (10) days up to the statutory maximum of $1,200,000.

17. This document constitutes a *notice of opportunity for hearing* pursuant to section 503(b)(3)(A) of the Communications Act of 1934, as amended, 47 U.S.C. 503(b)(A), for the

potential forfeiture liability outlined above.

18. A copy of this *order to show cause and notice of opportunity for hearing* shall be sent by certified mail, return receipt requested, to NOS Communications, Inc., Affinity Network Incorporated, and NOSVA Limited Partnership at:

NOS Communications, Inc., 6110 Executive Boulevard, Ste. 508, Rockville, MD 20852.

Affinity Network, Inc., 4380 Boulder Highway, Las Vegas, NV 89121.

NOSVA Limited Partnership, 6701 Democracy Boulevard, Ste. 811, Bethesda, MD 20817.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–9687 Filed 4–18–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 03–84; DA 03–867]

The Bundling of Local Telephone Service With Long Distance Service

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Commission seeks comments on a petition for declaratory ruling concerning the bundling of local telephone service with long distance service.

DATES: Comments are due on June 5, 2003, and reply comments are due June 20, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC. 20554. *See* **SUPPLEMENTARY INFORMATION** for further filing instructions.

FOR FURTHER INFORMATION CONTACT: Calvin Osborne, Policy Division, Consumer & Governmental Affairs Bureau, (202) 418–2512.

SUPPLEMENTARY INFORMATION: A public notice was released on March 27, 2003, regarding a petitioner who filed a Petition for Declaratory Ruling with the Federal Communications Commission on August 9, 2002. The petitioner's petition was filed pursuant to an Order by the United States District Court for the Middle District of Florida which referred several questions to the Commission under the doctrine of primary jurisdiction. The petitioner requests that the Commission issue a ruling on the following issues: (1) Whether the state claims set forth by petitioner in the complaint are preempted by the Communications Act giving exclusive jurisdiction to the Commission; (2) whether local telephone service providers may provide local service only to their customers, or must, by virtue of their filed tariff rates or otherwise, bundle local service with long distance service, even where a customer has no need for long distance service; and (3) if long distance service is not required to be bundled with local service in all events, if the practice of bundling these services is a violation of the Communications Act.

The Commission seeks comment on the three issues outlined in the filing. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before June 5, 2003, and reply comments on or before June 20, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.

Comments filed through the ECFS can be sent as an electronic file via the Internet to *http://www.fcc.gov/cgb/ecfs/*. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form''. A sample form and directions will be sent in reply. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail).

The Commission's contractor, Vistronix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

Federal Communications Commission.

Margaret M. Egler,

Deputy Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 03–9686 Filed 4–18–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following collections of information titled: (1) Foreign Branch Report of Condition, (2) Certification of Eligibility under the Affordable Housing Program, and (3) Mutual-to-Stock Conversions of State Savings Banks.

DATES: Comments must be submitted on or before June 20, 2003.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Consumer and Compliance Unit), (202) 898–7453, Legal Division, Room MB–3109, Attention: Comments/Legal, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. All comments should refer to the OMB control number. Comments may be hand-delivered to the guard station at

the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (Internet address: *comments@fdic.gov*).

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10236, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. Title: Foreign Branch Report of Condition.

OMB Number: 3064–0011.

Form Number: FFIEC 030.

Frequency of Response: Quarterly/annually.

Affected Public: Foreign branches of insured banks.

Estimated Number of Respondents: 15.

Estimated Time per Response: 3.9 hours.

Total Annual Burden: 58.5 hours.

General Description of Collection: The Foreign Branch Report of Condition, Form FFIEC 030, contains asset and liability information along with data on certain off balance sheet items for foreign branches of insured banks.

2. Title: Certification of Eligibility Under the Affordable Housing Program.

OMB Number: 3064–0116.

Frequency of Response: On occasion.

Affected Public: All financial institutions.

Estimated Number of Respondents: 12.

Estimated Time per Response: 1 hour.

Total Annual Burden: 12 hours.

General Description of Collection: The collection of information certifies income eligibility under the affordable housing program. This certification assists the FDIC in determining an individual's eligibility for purchasing affordable housing properties from the FDIC.

3. Title: Mutual-to-Stock Conversions of State Savings Banks.

OMB Number: 3064–0117.

Frequency of Response: On occasion.

Affected Public: State savings banks.

Estimated Number of Respondents: 10.

Estimated Time per Response: 50 hours.

Total Annual Burden: 500 hours.

General Description of Collection: 12 CFR 303.161 and 333.4 require state savings banks that are not members of the Federal Reserve System to file with the FDIC a notice of intent to convert to stock form and provide copies of documents filed with State and Federal banking and or securities regulators in connection with the proposed conversion.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated in Washington, DC, this 16th day of April, 2003.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 03–9692 Filed 4–18–03; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning the following collections of information titled: (1) Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks), (2) Foreign Banks, (3) Notification of Changes in Insured Status, and (4) Applicant Background Questionnaire.

DATES: Comments must be submitted on or before June 20, 2003.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Consumer and Compliance Unit), (202) 898–7453, Legal Division, Room MB–3109, Attention: Comments/Legal, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429. All comments should refer to the OMB control number. Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. [Internet address: *comments@fdic.gov*].

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10236, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to renew the following currently approved collections of information:

1. Title: Notices Required of Government Securities Dealers or Brokers (Insured State Nonmember Banks).

OMB Number: 3064–0093.

Form Number: G–FIN, G–FINW, G–FIN–4, G–FIN–5.

Frequency of Response: On occasion.

Affected Public: All financial institutions acting as government securities brokers and dealers.

Estimated Number of Respondents: 180.

Estimated Time per Response: 1 hour.

Total Annual Burden: 180 hours.

General Description of Collection: The Government Securities Act of 1986 requires all financial institutions acting as government securities brokers and dealers to notify their federal regulatory agencies of their broker-dealer activities, unless exempted from the notice requirement by Treasury Department regulation.

2. Title: Foreign Banks.

OMB Number: 3064–0114.

Frequency of Response: On occasion.

Affected Public: Insured branches of foreign banks in the United States.

Estimated Number of Respondents: 418.

Estimated Time per Response: ranges from ¼ hour to 120 hours.

Total Annual Burden: 4,398 hours.

General Description of Collection: The collection of information consists of (a) applications to operate as a noninsured state-licensed branch of a foreign bank; (b) applications from an insured state licensed branch of a foreign bank to conduct activities which are not permissible for a federally-licensed branch; (c) internal recordkeeping by insured branches of foreign banks; and (d) reporting requirements relating to an insured branch's pledge of assets to the FDIC.

3. Title: Notification of Changes in Insured Status.

OMB Number: 3064–0124.

Frequency of Response: On occasion.

Affected Public: Insured depository institutions.

Estimated Number of Respondents: 943.

Estimated Time per Response: ¼ hour.

Total Annual Burden: 236 hours.

General Description of Collection: 12 U.S.C. 1818(q) requires an insured depository institution to provide the FDIC with a certification when it partially or completely assumes deposit liabilities from another insured depository institution.

4. Title: Applicant Background Questionnaire.

OMB Number: 3064–0138.

Form Number: 2100/14.

Frequency of Response: On occasion.

Affected Public: Potential FDIC employment applicants.

Estimated Number of Respondents: 10,000.

Estimated Time per Response: 3 minutes.

Total Annual Burden: 500 hours.

General Description of Collection: The FDIC Applicant Background Questionnaire is completed voluntarily by FDIC job applicants who are not current FDIC employees. Responses to questions on the survey provide information on gender, age, disability, race/national origin, and the applicant's source of vacancy announcement information. Data is used by the Office of Diversity and Economic Opportunity and the Personnel Services Branch to evaluate the effectiveness of various recruitment methods used by the FDIC to ensure that the agency meets workforce diversity objectives.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of these collections. All comments will become a matter of public record.

Dated at Washington, DC, this 16th day of April, 2003.

Federal Deposit Insurance Corporation.

Valerie Best,

Assistant Executive Secretary.

[FR Doc. 03–9693 Filed 4–18–03; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following workgroup meeting:

Name: Dose Reconstruction Workgroup, Advisory Board on Radiation and Worker Health (ABRWH), National Institute for Occupational Safety and Health (NIOSH).

Time and date: 9 a.m.–12 p.m., April 30, 2003.

Place: National Institute for Occupational Safety and Health, Hamilton Building, 5555 Ridge Avenue, Conference Room C, Cincinnati, Ohio 45213, telephone 513/841–4498, fax 513/458–7125.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 55 people.

Background

The Advisory Board on Radiation and Worker Health (''the Board'') was established under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 to advise the President, through the Secretary of Health and Human Services (HHS), on a variety of policy and technical functions required to implement and effectively manage the new compensation program. Key functions of the Board include providing advice on the development of probability of causation guidelines which have been promulgated by HHS as a final rule, advice on methods of dose reconstruction which have also been promulgated by HHS as a final rule, evaluation of the scientific validity and quality of dose reconstructions conducted by NIOSH for qualified cancer claimants, and advice on the addition of classes of workers to the Special Exposure Cohort.

In December 2000 the President delegated responsibility for funding, staffing, and operating the Board to HHS, which subsequently delegated this authority to the CDC. NIOSH implements this responsibility for CDC. The charter was signed on August 3, 2001, and the President has completed the appointment of members to the Board to ensure a balanced representation on the Board.

Purpose

This board is charged with (a) providing advice to the Secretary, HHS, on the development of guidelines under Executive Order 13179; (b) providing advice to the Secretary, HHS, on the scientific validity and quality of dose reconstruction efforts performed for this Program; and (c) upon request by the Secretary, HHS, advise the Secretary on whether there is a class of employees at any Department of Energy facility who were exposed to radiation but for whom it is not feasible to estimate their radiation dose, and on whether there is reasonable likelihood that such radiation doses may have endangered the health of members of this class.

Matters To Be Discussed

Agenda will focus on a ''Pre-Bidders'' meeting regarding the scope of work for the solicitation titled, ''Technical Support for the Advisory Board on Radiation and Worker Health Review of the NIOSH Dose Reconstruction Program.''

Agenda items are subject to change as priorities dictate.

As provided under 41 CFR 102–3.150(b), the public health urgency of this agency business requires that the meeting be held prior to the first available date for publication of this notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Executive Secretary, ABRWH, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4498, fax 513/458–7125.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: April 15, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–9689 Filed 4–18–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0282]

Agency Information Collection Activities; Announcement of OMB Approval; Notice of Participation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Notice of Participation'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 30, 2002 (67 FR 79639), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0191. The approval expires on April 30, 2006. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: April 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–9662 Filed 4–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0142]

Agency Information Collection Activities: Proposed Collection; Comment Request; Guidance for Industry on Submitting and Reviewing Complete Responses to Clinical Holds

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information contained in a guidance for industry entitled ''Guidance for Industry on Submitting and Reviewing Complete Responses to Clinical Holds.'' The guidance describes how to submit a complete response if an investigational new drug (IND) application is placed on clinical hold by FDA.

DATES: Submit written or electronic comments on the collection of information by June 20, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm*. Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Guidance for Industry on Submitting and Reviewing Complete Responses to Clinical Holds

Section 117 of the Food and Drug Administration Modernization Act (Public Law 105–115), signed into law by President Clinton on November 21, 1997, provides that a written request to FDA from the applicant of an investigation that a clinical hold be removed shall receive a decision in writing, specifying the reasons for that decision, within 30 days after receipt of such request. A clinical hold is an order issued by FDA to the applicant to delay a proposed clinical investigation or to suspend an ongoing investigation for a drug or biologic. An applicant may respond to a clinical hold.

Under section 505(i)(3)(C) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 505(i)(3)(C)), any written request to FDA from the sponsor of an investigation that a clinical hold be removed must receive a decision, in writing and specifying the reasons, within 30 days after receipt of the request. The request must include

sufficient information to support the removal of the clinical hold.

In the **Federal Register** of May 14, 1998 (63 FR 26809), FDA published a notice of availability of a guidance that described how applicants should submit responses to clinical holds so that they may be identified as complete responses and the agency can track the time to respond. FDA issued a revised guidance in October 2000.

The revised guidance states that FDA will respond in writing within 30 calendar days of receipt of a sponsor's request to release a clinical hold and a complete response to the issue(s) that led to the clinical hold. An applicant's complete response to an IND clinical hold is a response in which all clinical hold issues identified in the clinical hold letter have been addressed.

The guidance requests that applicants type in large, bold letters at the top of the cover letter of the complete response ''Clinical Hold Complete Response'' to expedite review of the response. The guidance also requests that applicants submit the complete response letter in triplicate to the IND and that they fax a copy of the cover letter to the FDA contact person listed in the clinical hold letter who is responsible for the IND. The guidance requests more than an original and two copies of the cover letter in order to ensure that the submission is received and handled in a timely manner.

Based on data concerning the number of complete responses to clinical holds received by the Center for Drug Evaluation and Research (CDER) in fiscal years 2001 and 2002, CDER estimates that approximately 41 responses are submitted annually from approximately 29 applicants, and that it takes approximately 284 hours to prepare and submit each response to CDER.

Based on data concerning the number of complete responses to clinical holds received by the Center for Biologics Evaluation and Research (CBER) in fiscal years 2001 and 2002, CBER estimates that approximately 123 responses are submitted annually from approximately 78 applicants, and that it takes approximately 284 hours to prepare and submit each response to CBER.

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Complete Responses to Clinical Holds	Number of Respondents	Number of Responses Per Respondent	Total Annual Responses	Hours per Response	Total Hours
CDER	29	approx. 1	41	284	11,644
CBER	78	1.58	123	284	34,932
Total					46,576

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: April 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–9664 Filed 4–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03E–0032]

Determination of Regulatory Review Period for Purposes of Patent Extension; IMAGENT

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for IMAGENT and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov.dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–013), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3460.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product IMAGENT (perfluorohexane and DMPC). IMAGENT is indicated for use in subjects with suboptimal echocardiograms to opacify the left ventricular chamber and to improve the delineation of the left venricular endocardiol border. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for IMAGENT (U.S. Patent No. 5,639,443) from Alliance Pharmaceutical Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 4, 2003, FDA advised the Patent and Trademark Office that this human drug product had

undergone a regulatory review period and that the approval of IMAGENT represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for IMAGENT is 2,264 days. Of this time, 1,303 days occurred during the testing phase of the regulatory review period, while 961 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: March 21, 1996. The applicant claims February 20, 1996, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was March 21, 1996, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: October 14, 1999. The applicant claims October 11, 1999, as the date the new drug application (NDA) for IMAGENT (NDA 21–191) was initially submitted. However, FDA records indicate that NDA 21–191 was submitted on October 14, 1999.

3. *The date the application was approved*: May 31, 2002. FDA has verified the applicant's claim that NDA 21–191 was approved on May 31, 2002.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 423 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (*see* **ADDRESSES**) written or electronic comments and ask for a redetermination by June 20, 2003. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by October 20, 2003. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (*See* H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (*see* **ADDRESSES**). Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 2003.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 03–9809 Filed 4–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0405]

Agency Information Collection Activities; Announcement of OMB Approval; Medical Device Reporting: Manufacturer Reporting, Importer Reporting, User Facility Reporting, and Distributor Reporting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Medical Device Reporting: Manufacturer Reporting, Importer Reporting, User Facility Reporting, and Distributor Reporting'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 9, 2003 (68 FR 1187), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0437. The approval expires on April 30, 2006. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets*.

Dated: April 14, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–9810 Filed 4–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02E–0343]

Determination of Regulatory Review Period for Purposes of Patent Extension; ZEVALIN

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for ZEVALIN and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human biological product.

ADDRESSES: Submit written or electronic comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov.dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–013), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3460.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human

biological products, the testing phase begins when the exemption to permit the clinical investigations of the biological becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human biological product and continues until FDA grants permission to market the biological product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human biological product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human biological product ZEVALIN (CD20 Monoclonal Antibody). ZEVALIN is indicated for treatment of patients with relapsed or refractory low-grade, follicular, or transformed B-cell non-Hodgkin's lymphoma, including patients with Rituximab (Rituxan) refractory follicular non-Hodgkin's lymphoma; the therapeutic regimen includes Rituximab, Indium–111 Ibritumomab Tiuxetan, and Yttrium–90 Ibritumomab Tiuxetan. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for ZEVALIN (U.S. Patent No. 5,776,456) from IDEC Pharmaceuticals Corp., and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated February 3, 2003, FDA advised the Patent and Trademark Office that this human biological product had undergone a regulatory review period and that the approval of ZEVALIN represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for ZEVALIN is 3,363 days. Of this time, 2,887 days occurred during the testing phase of the regulatory review period, while 476 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(i)) became effective*: December 7, 1992. FDA has verified the applicant's claim that the date the investigational new drug application became effective was on December 7, 1992.

2. *The date the application was initially submitted with respect to the human biological product under section 351 of the Public Health Service Act (41 U.S.C. 262)*: November 1, 2000. FDA has verified the applicant's claim that the biologics license application (BLA) for ZEVALIN (BLA 1250190) was initially submitted on November 1, 2000.

3. *The date the application was approved*: February 19, 2002. FDA has verified the applicant's claim that BLA 1250190 was approved on February 19, 2002.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 227 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (*see* **ADDRESSES**) written or electronic comments and ask for a redetermination by June 20, 2003. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by October 20, 2003. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (*See* H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (*see* **ADDRESSES**). Three copies of any mailed information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 2003.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 03–9694 Filed 4–21–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 01E–0031]

Determination of Regulatory Review Period for Purposes of Patent Extension; EXELON

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for EXELON and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Director of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESSES: Submit written comments and petitions to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov.dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Claudia Grillo, Office of Regulatory Policy (HFD–013), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3460.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) and the Generic Animal Drug and Patent Term Restoration Act (Public Law 100–670) generally provide that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, animal drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under these acts, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the

actual amount of extension that the Director of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product EXELON (rivastigmine tartrate). EXELON is indicated for the treatment of mild to moderate dementia of the Alzheimer's type. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for EXELON (U.S. Patent No. 4,948,807) from Novartis, and the Patent and Trademark Office requested FDA's assistance in determining this patent's eligibility for patent term restoration. In a letter dated May 2, 2001, FDA advised the Patent and Trademark Office that this human drug product had undergone a regulatory review period and that the approval of EXELON represented the first permitted commercial marketing or use of the product. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for EXELON is 3,424 days. Of this time, 2,313 days occurred during the testing phase of the regulatory review period, while 1,111 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) became effective*: December 8, 1990. The applicant claims November 7, 1990, as the date the investigational new drug application (IND) became effective. However, FDA records indicate that the IND effective date was December 8, 1990, which was 30 days after FDA receipt of the IND.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the act*: April 7, 1997. FDA has verified the applicant's claim that the new drug application (NDA) for EXELON (NDA 20–823) was initially submitted on April 7, 1997.

3. *The date the application was approved*: April 21, 2000. FDA has verified the applicant's claim that NDA 20–823 was approved on April 21, 2000.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 1,825 days of patent term extension.

Anyone with knowledge that any of the dates as published are incorrect may submit to the Dockets Management Branch (*see* **ADDRESSES**) written or electronic comments and ask for a redetermination by June 20, 2003. Furthermore, any interested person may petition FDA for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period by October 20, 2003. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (*See* H. Rept. 857, part 1, 98th Cong., 2d sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (*see* **ADDRESSES**). Three copies of any information are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 31, 2003.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 03–9663 Filed 4–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03D–0120]

Medical Devices: Draft Guidance for Industry and FDA Reviewers; Multiplex Tests for Heritable DNA Markers, Mutations, and Expression Patterns; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of the draft guidance for industry entitled ''Multiplex Tests for Heritable DNA Markers, Mutations, and Expression Patterns.'' FDA has received many inquiries pertaining to multiplex test submissions (including microarray submissions). This draft guidance document represents the Center for Devices and Radiological Health's (CDRH) attempt to continue the dialogue with stakeholders regarding the basic framework for the types of data that should be included in a submission. FDA is anxious to provide the best guidance possible to assist sponsors in developing multiplex text submissions that will support timely review and marketing of safe and effective products using this technology. This draft guidance document is neither final nor is it in effect at this time.

DATES: Submit written or electronic comments on this draft guidance document by July 21, 2003.

ADDRESSES: Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Multiplex Tests for Heritable DNA Markers, Mutations, and Expression Patterns'' to the Division of Small Manufacturers, International, and Consumer Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your request or fax your request to 301–443–8818. *See* the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the draft guidance document.

Submit written comments on this draft guidance to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*. Identify comments with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Elizabeth Mansfield or Michele Schoonmaker, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1293.

SUPPLEMENTARY INFORMATION:

I. Background

FDA anticipates that multiplex tests, including such as microarrays, using DNA and ribonuclei acid samples will are anticipated to have a number of clinical purposes, including genotyping, haplotype analysis, and categorization by expression profile, etc. FDA has received many inquiries pertaining to possible regulatory strategies for submitting and reviewing data from assays yielding multiple, simultaneous results. Over the past 24 months, FDA has participated in a number of seminars and workshops with representatives from the drug and

device industries, professional societies, laboratory professionals, healthcare providers, and other stakeholders, which discussed the criteria that are important in the analytical and clinical validation of multiplex assays. These discussions also explore the kind of information the industry might submit to the agency to achieve the least burdensome means of demonstrating substantial equivalence or evaluating effectiveness. FDA is issuing the draft guidance document in an effort to continue this dialogue. FDA believes the draft guidance document represents a summary of the discussions that have taken place.

FDA recognizes, however, that the discussions to this point have been introductory. Therefore, following review of the comments we receive on this draft guidance document, FDA intends to issue a new draft guidance document for additional discussion. FDA is taking this approach because we believe the public health will benefit from dialogue with the industry about appropriate ways to review this new and important technology.

II. Significance of Guidance

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the agency's current thinking on ''Multiplex Tests for Heritable DNA Markers, Mutations, and Expression Patterns.'' It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if the approach satisfies the requirements of the applicable statutes and regulations.

III. Paperwork Reduction Act of 1995

This draft guidance document contains information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA). The collections of information addressed in the draft guidance document have been approved by OMB in accordance with the PRA under the regulations governing premarket notification submissions (21 CFR part 807, subpart E, OMB Control Number 0910–0120 and/or premarket approval applications (21 CFR part 814, OMB Control Number 0910–0231)).

IV. Comments

Interested persons may submit to the Dockets Management Branch (*see* **ADDRESSES**) written or electronic comments on the draft guidance. Submit a single copy of electronic comments to *http://www.fda.gov/dockets/ecomments*. Submit two hard copies of any mailed comments. Identify comments with the docket number found in brackets in the heading of this document. The draft guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

V. Electronic Access

The CDRH Web site may be accessed at *http://www.fda.gov/cdrh*. A search capability for all CDRH guidance documents is available at *http://www.fda.gov/cdrh/guidance.html*. Guidance documents are also available on the Dockets Management Branch Internet site at *http://www.fda.gov/ohrms/dockets*.

To receive a copy of ''Multiplex Tests for Heritable DNA Markers, Mutations, and Expression Patterns'' by fax, call the CDRH Facts-On-Demand system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. Press 1 to enter the system. At the second voice prompt, press 1 to order a document. Enter the document number (1210) followed by the pound sign (#). Follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the draft guidance document may also do so by using the Internet. CDRH maintains a site on the Internet for easy access to information including text, graphics, and files that may be downloaded to a personal computer with Internet access. Updated on a regular basis, the CDRH home page includes device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, Mammography Matters, and other device-oriented information.

Dated: April 3, 2003.

Linda S. Kahan,

Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 03–9661 Filed 4–18–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Organ Procurement and Transplantation Network

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice of Meeting of the Advisory Committee on Organ Transplantation.

SUMMARY: Pursuant to Pub. L. 92–463, the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the fourth meeting of the Advisory Committee on Organ Transplantation (ACOT), Department of Health and Human Services (HHS). The meeting will be held from approximately 9 a.m. to 5:30 p.m. on May 22, 2003, and from 9 a.m. to 5 p.m. on May 23, 2003, at the Marriott Washington, 1221 22nd Street NW., Washington, DC 20037. The meeting will be open to the public; however, seating is limited and pre-registration is encouraged (*see* below).

SUPPLEMENTARY INFORMATION: Under the authority of 42 U.S.C. Section 217a, Section 222 of the Public Health Service Act, as amended, and 42 CFR 121.12 (2000), the ACOT was established to assist the Secretary in enhancing organ donation, ensuring that the system of organ transplantation is grounded in the best available medical science, and assuring the public that the system is as effective and equitable as possible, and, thereby, increasing public confidence in the integrity and effectiveness of the transplantation system. The ACOT is composed of 41 members, including the Chair. Members are serving as Special Government Employees and have diverse backgrounds in fields such as organ donation, health care public policy, transplantation medicine and surgery, critical care medicine and other medical specialties involved in the identification and referral of donors, non-physician transplant professions, nursing, epidemiology, immunology, law and bioethics, behavioral sciences, economics and statistics, as well as representatives of transplant candidates, transplant recipients, organ donors, and family members.

The ACOT will hear and discuss reports from the following ACOT subcommittees: Organ Supply Concerns, Recipient Concerns, Public Concerns, and Allocation Concerns.

The draft meeting agenda will be available on May 1 on the Division of Transplantation's Web site *http://*

www.hrsa.gov/osp/dot/whatsnew.htm or the Department's donation Web site at *http://www.organdonor.gov/acot.html.*

A registration form is available on the Division of Transplantation's Web site: *http://www.hrsa.gov/osp/dot/whatsnew.htm* or the Department's donation Web site at *http://www.organdonor.gov/acot.html.* The completed registration form should be submitted by facsimile to McFarland and Associates, Inc., the logistical support contractor for the meeting, at Fax number (301) 589–2567. Individuals without access to the Internet who wish to register may call Paulette Wiggins with McFarland and Associates, Inc., at 301–562–5337. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the ACOT Executive Director, Jack Kress, in advance of the meeting. Mr. Kress may be reached by telephone at 301–443–8653, by e-mail at: *jkress2@hrsa.gov*, or in writing at the address of the Division of Transplantation provided below. Management and support services for ACOT functions are provided by the Division of Transplantation, Office of Special Programs, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, Room 16C–17, Rockville, Maryland 20857; telephone number 301–443–7577.

After the presentation of the subcommittee reports, members of the public will have an opportunity to provide comments on the subcommittee reports. Because of the Committee's full agenda and the time frame in which to cover the agenda topics, public comment will be limited. All public comments will be included in the record of the ACOT meeting.

Dated: April 10, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–9665 Filed 4–18–03; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Proposed Information Collection; Request for Comments

AGENCY: Indian Health Service, HHS.

ACTION: Request for public comment: 30-day proposed information collection: ''IHS Forms to Implement the Privacy Rule (45 CFR parts 160 and 164).

SUMMARY: The Indian Health Service (IHS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. As required by section 3507(a)(1)(D) of the Act, the proposed information collection has been submitted to the Office of Management and Budget (OMB) for review and approval. The IHS received comments in response to the 60-day **Federal Register** notice (67 FR 67411) published on November 5, 2002. The public comments received in response to the notice and the Agency responses are summarized and addressed below.

Comment: One comment questioned the readability of the forms. The commentor suggested that the Flesch Reading Ease score be raised to 50–75 percent from the 27.9 percent–47.3 percent readability score that the forms received. The commentor also noted that the Flesch-Kincaid Grade level for the forms required a reading level of 11½ to 12 years of education. The commentor also suggested decreasing the required education level for the forms.

Agency Response: The data collection instruments were field tested at the Fort Duchesne IHS Health Center, Fort Duchesne, Utah to determine whether the data collection instruments and instructions were clear and user friendly. They were found to be user friendly, clear and understandable. Changes suggested during the field testing were incorporated into the forms. Since the forms are generally filled in by the patient at an IHS facility, questions regarding understandability will be answered by IHS staff who will be trained on the correct and proper use of each form.

Comment: The only other comment received concerned the proposed IHS Form 911 (renumbered 917), the Request for Correction/Amendment of Protected Health Information. The commentor requested that the IHS eliminate the word ''Correction'' from the title and the word ''corrected'' in the body of the form. The commentor believed that the word ''correction'' implies a deletion of information. The commentor points out that the word ''correction'' was deleted from § 164.526 of the Privacy Rule for the same reason. In addition the commentor also states that the Privacy Act of 1974 (5 USC 552a) in section (d)(2) Access to Records does not reference ''correction/amendment.'' This last point is not correct. If one continues to read section (d)(2) further to subsection (d)(2)(B)(i) the Privacy Act states that the agency is required to ''make any correction of any portion thereof which the individual believes is not accurate, relevant, timely or complete; * * *'' The Privacy Act clearly uses the word ''correction'' regarding the corrective action that the Agency is required to take. Furthermore, the Department of Health and Human Services (DHHS) Privacy Regulations at 45 CFR 5 b.7 and 5 b.8 also use the terms ''correction or amendment'' in either the titles of the subsections or in the body of the subsection. Section 5 b.7 is titled ''Procedures for correction or amendment of records'' and § 5 b.8 is titled ''Appeals of refusals to correct or amend records.'' Furthermore, the DHHS Privacy Regulation also clearly states in section 5 b.7 when an actual deletion would occur. Section 5 b.7 states that ''The record will be deleted without regard to its accuracy, if the record is not relevant or necessary to accomplish the Department functions for which the record was provided or is maintained.'' Therefore we believe that the Privacy Act and the DHHS regulations in this regard are quite clear. As an added note, the IHS Manual at Chapter 3–3.14(c)(6) describes the method for correcting entries in a medical record. The manual states that no erasure or other obliteration shall be made and also required that incorrect data shall be lined out with a single line.

Therefore, the IHS has decided not to follow the suggestions submitted by the commentor.

The purpose of this notice is to allow an additional 30 days for public comment to be submitted directly to OMB.

Proposed Collection: Title: 09–17–NEW, ''IHS Forms to implement the Privacy Rule (45 CFR parts 160 and 164)''. *Type of Information Collection Request:* New collection. *Form Number(s):* IHS–810 Authorization for Use or Disclosure of Health Information, IHS–917 Request for Correction/Amendment of Protected Health Information, IHS–912–I Request for Restriction(s), IHS 912–2 Terminating a Restriction, and IHS 913 Request For an Accounting of Disclosures. *Need and Use of Information Collection:* This collection of information is made necessary by the Department of Health

and Human Services Rule entitled ''Standards for Privacy of Individually Identifiable Health Information'' (''Privacy Rule'') (45 CFR parts 160 and 164). The Privacy Rule implements the privacy requirements of the Administrative Simplification subtitle of the Health Information Portability and Accountability Act of 1996 and creates national standards to protect an individual's personal health information and gives patients increased access to their medical records. Sections, 45 CFR 164.508, 552, 526 and 528 of the Rule require the collection of information to implement these protection standards and access requirements. The IHS will use the following data collection instruments to implement the information collection requirements contained in the Rule.

45 CFR 164.508: This provision requires covered entities to obtain or receive a valid authorization for its use or disclosure of protected health information for uses other than for treatment, payment and healthcare operations. Under the provision, individuals may initiate a written authorization permitting covered entites to release their protected health information to entities of their choosing. The ''IHS–810 Authorization for Use or Disclosure of Health Information'' form will be used to document an individual's authorization to use or disclose their protected health information.

45 CFR 164.522: Section 164.522(a)(1) requires a covered entity to permit individuals to request that the covered entity restrict the use and disclosure of their protected health information. The covered entity may or may not agree to the restriction. The ''IHS–912–1 Request for Restriction(s)'' form will be used to document an individual's request for restriction of their protected health information and whether IHS agreed or disagreed with the restriction. Section 164.522(a)(2)(1) permits a covered entity to terminate its agreement to a restriction if the individual agrees to or requests the termination in writing. The ''IHS–912–2 Request for Revocation of Restriction(s)'' form will be used to document the agency's or the individual's request to terminate a formerly agreed to restriction regarding the use and disclosure of protected health information.

45 CFR 164.526: This provision requires covered entities to permit an individual to request that the covered entity amend protected health information. If the covered entity accepts the requested amendment, in whole or in part, the covered entity must inform the individual that the amendment is accepted and obtain the individual's identification of and agreement to have the covered entity notify the relevant persons with whom the amendment needs to be shared. If the covered entity denies the requested amendment, in whole or in part, the covered entity must provide the individual with a written denial. The ''IHS–917 Request for Correction/Amendment of Protected Health Information'' form will be used to document an individual's request to amend their protected health information and the agency's decision to accept or deny the request.

45 CFR 164.528: This provision requires covered entities to permit an individual to request that the covered entity provide an accounting of disclosures of protected health information made by the covered entity. The ''IHS 913 Request for an Accounting of Disclosures'' form will be used to document an individual's request for an accounting of disclosures of their protected health information and the agency's handling of the request. Completed forms used in this collection of information are filed in the medical record.

Affected Public: Individuals and households. *Type of Respondents:* Individuals. *Burden Hours:* The table below provides the estimated burden hours for this information collection:

ESTIMATED ANNUAL BURDEN HOURS

45 CFR section/IHS form	Number of respondents	Responses per respondent	Burden per response [1] (minutes)	Total annual burden
164.508 IHS–810	500,000	1	20	166,667.
164.522(a)(1) IHS–912–I	15,000	1	10	2,500.
164.522(a)(2) IHS–912–2	5,000	1	10	833.
164.526 IHS–917	7,500	1	15	1,875
164.528 IHS–913	15,000	1	10	2,500.
Total Annual Burden		5		174,375.

[1] For ease of understanding, burden hours are provided in actual minutes.

The total estimated burden for this collection of information is 174,375 hours.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to respondents to report.

Request for Comments

Your written comments and/or suggestions are invited on one or more of the following points: (a) Whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Send your written comments and suggestions regarding the proposed information collection contained in this notice, especially regarding the estimated public burden and associated response time, to: Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20503, Attention: Allison Eydt, Desk Officer for IHS. Send request for more information on the proposed collection or to obtain a copy of the data collection instrument(s) and instructions to: Ms. Christine Ingersoll, IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852–1601, call non-toll free (301) 443–1116, send via facsimile to (301) 443–2316, or send your E-mail requests,

comments, and return address to: *cingersoll@hqe.ihs.gov.*

FOR FURTHER INFORMATION CONTACT: For questions directly pertaining to the proposed data collection instruments and/or the process, please contact Godwin Odia, RHIA, The Reyes Building, 801 Thompson Avenue, Suite 322, Rockville, MD 20852–1627, telephone (301) 443–1479.

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received within 30-days of the date of this publication.

Dated: February 3, 2003.

Charles W. Grim,

Assistant Surgeon General, Interim Director, Indian Health Service.

[FR Doc. 03–9436 Filed 4–18–03; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG 2003–14360]

Information Collection Under Review by the Office of Management and Budget (OMB): 1625–0073 (Formerly 2115–0141), Alteration of Unreasonably Obstructive Bridges

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard has forwarded one Information Collection Report (ICR), on Alteration of Unreasonably Obstructive Bridges, to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) for review and comment. Our ICR describes the information we seek to collect from the public. Review and comment by OIRA ensures that we impose only paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before May 21, 2003.

ADDRESSES: To make sure that your comments and related material do not enter the docket (USCG 2003–14360) more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation, room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th Street, NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard. Caution: Because of recent delays in the delivery of mail, your comments may reach the Facility more quickly if you choose one of the means described below.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Facility at 202–493–2251 and (b) OIRA at 202–395–5806, or e-mail to OIRA at *oira_docket@omb.eop.gov* attention: Desk Officer for the Coast Guard.

(4)(a) Electronically through the Web site for the Docket Management System at *http://dms.dot.gov.* (b) OIRA does not have a Web Site on which you can post your comments.

The Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 (Plaza level), 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available for inspection and copying in public dockets. They are available in docket USCG 2003–14360 of the Docket Management Facility between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays; for inspection and printing on the internet at *http://dms.dot.gov;* and for inspection from the Commandant (G–CIM–2), U.S. Coast Guard, room 6106, 2100 Second Street, SW., Washington, DC, between 10 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barbara Davis, Office of Information Management, 202–267–2326, for questions on this document; Dorothy Beard, Chief, Documentary Services Division, U.S. Department of Transportation, 202–366–5149, for questions on the docket.

SUPPLEMENTARY INFORMATION

Regulatory History

This request constitutes the 30-day notice required by OIRA. The Coast Guard has already published (68 FR 5328 (February 3, 2003)) the 60-day notice required by OIRA. That notice elicited no comments.

Request for Comments

The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collection; (2) the accuracy of the Department's estimated burden of the collection; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collection; and (4) ways to minimize the burden of collection on respondents, including the use of automated collection techniques or other forms of information technology.

Comments, to DMS or OIRA, must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, USCG 2003–14360. Comments to OIRA are best assured of having their full effect if OIRA receives them 30 or fewer days after the publication of this request.

Information Collection Request

Title: Alteration of Unreasonably Obstructive Bridges.

OMB Control Number: 1625–0073.

Type of Request: Extension of a currently approved collection.

Affected Public: Owners of certain bridges.

Form: This collection of information does not require the public to fill out forms, but does require the owner of an unreasonably obstructive bridge to submit information to determine the apportionment of cost between the U.S. and the owner for alteration of that bridge.

Abstract: The collection of information requires the owner of a bridge that the Coast Guard has found to be an unreasonable obstruction to navigation to prepare, and submit to the Coast Guard, general plans and specifications of that bridge.

Annual Estimated Burden Hours: The estimated burden is 120 hours a year.

Dated: April 11, 2003.

Clifford I. Pearson,

Director of Information and Technology.

[FR Doc. 03–9723 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Foreign Assembler's Declaration (With Endorsement by Importer)

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Foreign Assembler's Declaration (with Endorsement by Importer). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Foreign Assembler's Declaration (with Endorsement by Importer).

OMB Number: 1651–0031.

Form Number: N/A.

Abstract: The Foreign Assembler's Declaration with Importer's Endorsement is used by CBP to substantiate a claim for duty free treatment of U.S. fabricated components sent abroad for assembly and subsequently returned to the United States.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals.

Estimated Number of Respondents: 2,730.

Estimated Time Per Respondent: 50 minutes.

Estimated Total Annual Burden Hours: 302,402.

Estimated Total Annualized Cost on the Public: $3,860,608.00.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9759 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Application for Foreign Trade Zone Admission and/or Status Transaction, Application for Foreign Trade Zone Activity Report

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, The Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application for Foreign Trade Zone Admission and/or Status Transaction, Application for Foreign Trade Zone Activity Report. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Branch, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Application for Foreign Trade Zone Admission and/or Status Transaction, Application for Foreign Trade Zone Activity Report.

OMB Number: 1651–0029.

Form Number: Forms 214, 214A, 214B, 214C, and 216.

Abstract: Forms 214, 214A, 214B, and 214C, Application for Foreign-Trade Zone Admission and/or Status Designation, are used by business firms which bring merchandise into a foreign trade zone, to register the admission of such merchandise to zones and to apply for the appropriate zone status.

Current Actions: There are no changes to the information collection. This

submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 10,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 79,500.

Estimated Total Annualized Cost on the Public: $2,000,000.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9761 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Crew Members Declaration

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Crew Members Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Crew Members Declaration.

OMB Number: 1651–0021.

Form Number: Form 5129.

Abstract: This document is used to accept and record importations of merchandise by crew members, and to enforce agricultural quarantines, the currency reporting laws, and the revenue collection laws.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Individuals.

Estimated Number of Respondents: 5,968,351.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 298,418.

Estimated Total Annualized Cost on the Public: $5,968,360.

Dated: March 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9762 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Protest

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Protest. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Protest.

OMB Number: 1651–0017.

Form Number: Form 19.

Abstract: This collection is used by an importer, filer, or any party at interest to petition CBP, or Protest, any action or charge, made by the port director on or against any; imported merchandise,

merchandise excluded from entry, or merchandise entered into or withdrawn from a bonded warehouse.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, individuals, institutions.

Estimated Number of Respondents: 3,750.

Estimated Time Per Respondent: 30 minutes.

Estimated Total Annual Burden Hours: 67,995.

Estimated Total Annualized Cost on the Public: $1,167,247.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9763 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Customs Service

Proposed Collection; Comment Request; Application/Permit/Special License, Unlading/Lading Overtime Service

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application/Permit/Special License, Unlading/Lading Overtime Service. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Branch, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to U.S. Customs Service, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Application/Permit/Special License, Unlading/Lading Overtime Service.

OMB Number: 1651–0005.

Form Number: Form 3171.

Abstract: Form 3171, is used by commercial carriers and importers as a request for permission to unlade imported merchandise, baggage, or passengers and for overtime services of CBP officers in connection with lading or unlading of merchandise, or the entry or clearance of a vessel, including the boarding of a vessel for preliminary supplies, ship's stores, sea stores, or equipment not to be reladen, which is subject to free or duty-paid entry.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 1,500.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 39,900.

Estimated Total Annualized Cost on the Public: $438,900.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Group.

[FR Doc. 03–9765 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request

Importers Declaration/Shippers Declaration

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Importers Declaration/Shippers Declaration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Attn.: Tracey Denning, 1300 Pennsylvania Avenue, NW, Room 3.2C, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, 1300 Pennsylvania Avenue NW, Room 3.2C, Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including

the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Importer's Declaration/Shipper's Declaration.

OMB Number: 1651–0068.

Form Number: N/A.

Abstract: These declarations are related to the legal requirements and procedures which must be followed in order to obtain duty-free treatment on articles imported into the Customs territory of the United States from the insular possession.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 310.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 31.

Estimated Total Annualized Cost on the Public: $410.00.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9766 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request, Petroleum Refineries in Foreign Trade Subzones

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning Petroleum Refineries in Foreign Trade Subzones. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency' s estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Petroleum Refineries in Foreign Trade Subzones.

OMB Number: 1651–0063.

Form Number: None.

Abstract: The Petroleum Refineries in Foreign Trade Subzones is a rule that amended the regulations by adding special procedures and requirements governing the operations of crude petroleum and refineries approved as foreign trade zones.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 18.

Estimated Time Per Respondent: 732.

Estimated Total Annual Burden Hours: 13,176.

Estimated Total Annualized Cost on the Public: $329,400.

Dated: April 14, 2003.

Tracey Denning,

Information Services Group.

[FR Doc. 03–9767 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Exportation of Used Self-Propelled Vehicles

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Exportation of Used Self-Propelled Vehicles. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the

collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document, the CBP is soliciting comments concerning the following information collection:

Title: Exportation of Used-Propelled Vehicles.

OMB Number: 1651–0054.

Form Number: None.

Abstract: The Exportation of Used-Propelled Vehicles requires the submission of documents verifying vehicle ownership of exporters for exportation of vehicles in the United States.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Individuals, Businesses.

Estimated Number of Respondents: 600,000.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 100,000.

Estimated Total Annualized Cost on the Public: $1,700,000.

Dated: April 14, 2003.

Tracey Denning,

Information Services Group.

[FR Doc. 03–9768 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Serially Numbered Substantial Holders or Containers

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Serially Numbered Substantial Holders or Containers. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Serially Numbered Substantial Holders or Containers.

OMB Number: 1651–0035.

Form Number: N/A.

Abstract: The marking is used to provide for duty free entry of holders or containers which were manufactured in the United States and exported and returned without having been advanced in value or improved in condition by any process or manufacture. The regulations provide for duty free entry of holders or containers of foreign manufacture if duty has been paid before.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Institutions.

Estimated Number of Respondents: 20.

Estimated Time Per Respondent: 4.5 hours.

Estimated Total Annual Burden Hours: 90.

Estimated Total Annualized Cost on the Public: $1,080.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9769 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Certificate of Registration

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Certificate of Registration. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Border of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Certificate of Registration.

OMB Number: 1651–0010.

Form Number: Forms 4455 and 4457.

Abstract: The Certificate of Registration is used to expedite free entry or entry at a reduced rate on foreign made personal articles which are taken abroad. The articles are dutiable each time they are brought into the United States unless there is acceptable proof of prior possession.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Individuals, travelers.

Estimated Number of Respondents: 200,000.

Estimated Time Per Respondent: 3 minutes.

Estimated Total Annual Burden Hours: 10,000.

Estimated Total Annualized Cost on the Public: $104,500.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9772 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Application To Establish Centralized Examination Station

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Application to Establish Centralized Examination Station. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1426.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Application to Establish Centralized Examination Station.

OMB Number: 1651–0061.

Form Number: N/A.

Abstract: If a port director decides their port needs one or more Centralized Examination Stations (CES), they solicit applications to operate a CES. The information contained in the application will be used to determine the suitability of the applicant's facility, the fairness of his fee structure, his knowledge of cargo handling operations and his knowledge of CBP procedures.

Current Actions: There are no changes to the information collection. This submission is being submitted to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses, Individuals, Institutions.

Estimated Number of Respondents: 50.

Estimated Time Per Respondent: 2 hours (120 minutes).

Estimated Total Annual Burden Hours: 100.

Estimated Total Annualized Cost on the Public: $1,450.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9773 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Importers ID Input Record

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the

general public and other Federal agencies to comment on an information collection requirement concerning the Importers ID Input Record. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Importers ID Input Record.

OMB Number: 1651–0064.

Form Number: Form 5106.

Abstract: This document is filed with the first formal entry which is submitted or the first request for services that will result in the issuance of a bill or a refund check upon adjustment of a cash collection.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses/Institutions.

Estimated Number of Respondents: 500.

Estimated Time Per Respondent: 6 minutes.

Estimated Total Annual Burden Hours: 100.

Estimated Total Annualized Cost on the Public: $13,750.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9774 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Delivery Ticket

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Delivery Ticket (Form 6043). This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Delivery Ticket (Form 6043).

OMB Number: 1651–0081.

Form Number: Form 6043.

Abstract: This collection is intended to cover a warehouse proprietor's receipt of transport to the warehouse from custody of the arriving carrier.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses/Institutions.

Estimated Number of Respondents: 200.

Estimated Time Per Respondent: 20 minutes.

Estimated Total Annual Burden Hours: 6,600.

Estimated Total Annualized Cost on the Public: $82,500.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9775 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Proposed Collection; Comment Request; Administrative Rulings

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, the Bureau of Customs and Border Protection (CBP) invites the general public and other Federal agencies to comment on an information collection requirement concerning the Administrative Rulings. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)).

DATES: Written comments should be received on or before June 20, 2003, to be assured of consideration.

ADDRESSES: Direct all written comments to the Bureau of Customs and Border Protection, Information Services Group, Room 3.2.C, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Bureau of Customs and Border Protection, Attn.: Tracey Denning, Room 3.2.C, 1300 Pennsylvania Avenue NW., Washington, DC 20229, Tel. (202) 927–1429.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104–13; 44 U.S.C. 3505(c)(2)). The comments should address: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) estimates of capital or start-up costs and costs of operations, maintenance, and purchase of services to provide information. The comments that are submitted will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

Title: Administrative Rulings.

OMB Number: 1651–0085.

Form Number: N/A.

Abstract: This collection is necessary in order for CBP to respond to requests by importers and other interested persons for the issuance of administrative rulings regarding the interpretation of CBP laws with respect to prospective and current transactions.

Current Actions: There are no changes to the information collection. This submission is to extend the expiration date.

Type of Review: Extension (without change).

Affected Public: Businesses/Institutions.

Estimated Number of Respondents: 12,200.

Estimated Time Per Respondent: 10 hours.

Estimated Total Annual Burden Hours: 128,000.

Estimated Total Annualized Cost on the Public: $12,800,000.

Dated: April 14, 2003.

Tracey Denning,

Agency Clearance Officer, Information Services Branch.

[FR Doc. 03–9776 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Cancellation of Customs Broker License Due to Death of the License Holder

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: Notice is hereby given that, pursuant to 19 CFR 111.51(a), the following individual Customs broker license and any and all associated permits have been cancelled due to the death of the broker:

Name	License No.	Port name
George Douglas Cunningham	2970	Mobile.
Ravi D. Phadnis	13452	Seattle.
Stanley C. McKenny	3141	Detroit.

Dated: April 14, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 03–9753 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Retraction of Revocation Notice

AGENCY: Bureau of Customs and Border Protection, U.S. Department of Homeland Security.

ACTION: General notice.

SUMMARY: The following Customs broker licenses were erroneously included in a list of revoked Customs broker licenses.

Name	License	Port name
Lindsey Forwarders, Inc.	14223	Portland, OR.
Judith Demeron	9637	Chicago.

Customs broker license Nos. 14223 and 9637 remain valid.

Dated: April 14, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 03–9756 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker license and any and all associated local and national permits are canceled without prejudice:

Name	License No.	Issuing port
San Jose Customs Brokers, Inc.	11895	San Francisco.
Stein Customs Consulting Services, Inc.	13849	Seattle.
Tania McCormack	5302	San Francisco.
Larry D. Tonsager	4196	Portland, OR.
Alton H. Ward	4595	Portland, ME.

Dated: April 14, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 03–9754 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Notice of Cancellation of Customs Broker License

AGENCY: Bureau of Customs and Border Protection, Department of Homeland Security.

ACTION: General notice.

SUMMARY: Pursuant to section 641 of the Tariff Act of 1930, as amended, (19 U.S.C. 1641) and the Customs Regulations (19 CFR 111.51), the following Customs broker license and any and all associated local and national permits are canceled without prejudice.

Name	License No.	Issuing port
Transoceanic Shipping Co.	4675	Houston.
Richard M. Nakamoto	6234	San Francisco.

These brokers hold multiple Customs broker licenses. They continue to hold other valid Customs broker licenses.

Dated: April 14, 2003.

Jayson P. Ahern,

Assistant Commissioner, Office of Field Operations.

[FR Doc. 03–9755 Filed 4–18–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4820–N–19]

Notice of Proposed Information Collection: Comment Request; Manufactured Housing Production and Fee Reporting

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comment Due Date:* June 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410, or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: William W. Matchneer III, Administrator, Office of Manufactured Housing Programs, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–6401 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required, by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35 as amended).

This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Manufactured Housing Production and Fee Reporting.

OMB Control Number: 2502–0233.

Description of the need for the information and proposed use: The Department of Housing and Urban Development uses these information collection to calculate and collect monitoring fees for manufactured housing units and to track the request, approval, and application of authorized certification labels.

Agency form numbers, if applicable: HUD–101, HUD–202, HUD–203B, HUD–301, HUD–302, HUD–303, HUD–304.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 5,208; the total number of respondents is 256 generating 7,536 annual responses; the frequency of response is on occasion; and the estimated time needed to prepare the responses is from one half hour to one hour.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: April 14, 2003.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 03–9800 Filed 4–18–03; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4820–N–18]

Notice of Proposed Information Collection: Comment Request; Request for Approval of Advance of Escrow Funds

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud,gov.*

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Papework Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the pubic and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* pertaining electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Request for Approval of Advance of Escrow Funds.

OMB Control Number, if applicable: 2502–0018.

Description of the need for the information and proposed use: The information needed from the ''Request for Approval of Advance of Escrow Funds'' form is to ensure that escrowed funds are disposed accurately for completion of offsite improvements, construction changes, non-critical repairs pending completion or not paid at final endorsement, or mortgagor's unpaid construction cost at final endorsement. The mortgagor to request withdrawal of escrowed funds also uses the information collection.

Agency form numbers, if applicable: HUD–92464.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 1,050; the number of respondents is 525 generating approximately 525 annual responses; the frequency of response is on occasion; and the estimated time needed to prepared the response is 2 hours.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: April 14, 2003.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 03–9801 Filed 4–18–03; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4820–N–17]

Notice of Proposed Information Collection: Comment Request; Lender Qualifications for Multifamily Accelerated Processing (MAP)

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Michael L. McCullough, Director, Office of Multifamily Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1142 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond: including the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Lender Qualifications for Multifamily Accelerated Processing (MAP) and Changes to the MAP Program.

OMB Control Number, if applicable: 2502–0541.

Description of the need for the information and proposed use: Multifamily Accelerated Processing (MAP) is a procedure that permits approved lenders to prepare, process, and submit loan applications for Federal Housing Administration (FHA) multifamily mortgage insurance. In May 2000, MAP replaced existing ''fast-track'' procedures with a single national process for all multifamily offices of the U.S. Department of Housing and Urban Development (HUD). Changes are being implemented to improve monitoring and maintaining the integrity of the MAP procedures in part as a result of a General Accounting Office (GAO) audit of MAP's implementation. MAP underwriters and construction loan administrators will be tracked as they move from lender to lender. This will be accomplished through a registry of approved MAP underwriters and construction loan administrators. HUD Headquarters, Lender Qualifications and Monitoring Division (LQMD) will make the initial approval of the MAP Lender's underwriters and construction loan administrators. This will insure a uniform review standard as opposed to the individual field offices doing the initial approval. MAP Lenders will be required to notify HUD Headquarters (LQMD) immediately when there is any change in the MAP underwriting staff, construction loan administrators, and persons authorized to bind the lender on MAP loan applications. MAP Lenders will be required to annually provide a certification listing the names of the lender's approved MAP underwriters, construction loan administrators and persons authorized to bind the lender on MAP loan applications. All MAP Lenders must submit either a pre-application package or Firm Commitment application within 6 months of the latter of the date of the Mortgagee Letter (Changes to the MAP Program) or the date of their approval as a MAP Lender and every 18 months thereafter. Failure to do so will be a basis for removal as an approved MAP Lender. Lenders losing their MAP designation will still be able to use traditional application processing. This requirement is being imposed to keep lenders active and prevent a loss of MAP underwriting skills. MAP Lenders will be required to provide HUD Headquarters (LQMD) with either an electronic mailbox or an individual's e-mail address. Maintaining multiple e-mail addresses for an individual lender has become an unmanageable task. HUD will use the electronic address to continue to notify MAP Lenders of program changes and other items of interest.

Agency form numbers, if applicable: None.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The number of respondents is 25 for new MAP Lender approval applications and 130 for the Mortgagee Letter information request, the frequency of response is 1, the hours per response is 10 hours for the MAP Lender application, 1 hour for the Mortgagee Letter information request, and the total estimated annual burden hours is 380.

Status of the proposed information collection: Revision of a currently approved collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: April 11, 2003.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 03–9802 Filed 4–18–03; 8:45 am]

BILLING CODE 4210–27—M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4820–N–16]

Notice of Proposed Information Collection: Comment Request; Mortgagee's Certificate

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is

soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8003, Washington, DC 20410 or *Wayne_Eddins@hud.gov.*

FOR FURTHER INFORMATION CONTACT: Michael McCullough, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 708–1142, (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Mortgagee's Certificate.

OMB Control Number, if applicable: 2502–0468.

Description of the need for the information and proposed use: HUD requires the mortgagee to submit Form HUD 2434, Mortgagee's Certificate, to assure that fees are within acceptable limits and the required escrows will be collected. HUD determines the reasonableness of the fees and uses the information in calculating the financial requirement for closing. The information is also used to determine allowable fees that will be collected from the mortgagor at closing.

Agency form numbers, if applicable: HUD–2434.

Estimation of the total numbers of hours needed to prepare the information collection based on the number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 825; the number of respondents is 1,100 generating approximately 1,100 annual responses; the frequency of response is on occasion; and the estimated time needed to prepare the response is 45 minutes.

Status of the proposed information collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: April 10, 2003.

Sean G. Cassidy,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 03–9803 Filed 4–18–03; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4849–N–01]

Notice of Proposed Information Collection: Comment Requested; Semi-annual Enforcement Report

AGENCY: Office of Departmental Operations and Coordination, Office of Labor Relations, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 800a, Washington, DC 20410 or *Wayne_Eddins@HUD.gov.*

FOR FURTHER INFORMATION CONTACT: Jade Banks, Senior Policy Advisor, Office of Labor Relations, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; *Jade_M._Banks@hud.gov*; telephone (202) 708–0370 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Semi-annual Enforcement Report.

OMB Control Number, if applicable: None.

Description of the need for the information and proposed use: Federal agencies administering programs subject to Davis-Bacon wage provisions are required by Department of Labor regulations to submit a report of all new covered contracts/projects and all enforcement activities each six months. In order for HUD to comply with this requirement, it must collect contract and enforcement information from local agencies that administer HUD-assisted programs subject to Davis-Bacon requirements.

Agency form numbers, if applicable: To be assigned.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total numbers of hours needed to prepare the information collection is 9,000, number of respondents is 4,500,

frequency of response is semi-annually, and the hours per response is 2. Recordkeeping requirements will add an additional 2,250 hours for a total of 11,250 hours per year.

Status of the proposed information collection: Existing collection in use without an OMB control number.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 9, 2003.

Frank L. Davis,

Director, Office of Departmental Operations and Coordination.

[FR Doc. 03–9804 Filed 4–18–03; 8:45 am]

BILLING CODE 7210–18–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4849–N–02]

Notice of Proposed Information Collection: Comment Requested; Report of Additional Classification and Wage Rate

AGENCY: Office of Departmental Operations and Coordination, Office of Labor Relations, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 800a, Washington, DC 20410 or *Wayne_Eddins@HUD.gov.*

FOR FURTHER INFORMATION CONTACT: Jade Banks, Senior Policy Advisor, Office of Labor Relations, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; *Jade_M._Banks@hud.gov;* telephone (202) 708–0370 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Report of Additional Classification and Wage Rate.

OMB Control Number, if applicable: 2501–0011.

Description of the need for the information and proposed use: Contractors and subcontractors engaged on HUD-assisted construction projects subject to Davis-Bacon wage requirements must pay no less than the wages determined to be prevailing by the Secretary of Labor to all laborers and mechanics engaged in the construction work. Occasionally, the Davis-Bacon wage determination applicable to the construction work does not contain a prevailing wage rate for all classifications of work needed to complete the work. In such cases, the contractor or subcontractor that will employ the classification(s) missing from the wage determination must propose a wage rate for such classification(s) for the consideration of the Department of Labor (DOL) with respect to that construction work. HUD and local agencies that administer HUD-assisted programs use the form HUD–4230A to record and submit the contractor or subcontractor's additional classification and wage rate request to the DOL. The contractor or subcontractor may itself complete the form HUD–4230A or may submit its request in writing to HUD or the local agency involved; HUD or the local agency will transcribe the request to the form for submission to the DOL. HUD is modifying the form to better identify the applicable Davis-Bacon wage determination and the construction work involved. The modifications will not affect the amount of time required to complete the information collection.

Agency form numbers, if applicable: HUD–4230A.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: An estimation of the total numbers of hours needed to prepare the information collection is 1,000, number of respondents is 500, frequency of response is on occasion, and the hours per response is 2. Recordkeeping requirements will add an additional hour for a total of 1,500 hours per year.

Status of the proposed information collection: Reinstatement with change of previously approved collection for which approval has expired.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 9, 2003.

Frank L. Davis,

Director, Office of Departmental Operations and Coordination.

[FR Doc. 03–9805 Filed 4–18–03; 8:45 am]

BILLING CODE 4210–18–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4849–N–03]

Notice of Proposed Information Collection: Comment Requested; Employee Questionnaire

AGENCY: Office of Departmental Operations and Coordination, Office of Labor Relations, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 800a, Washington, DC 20410. or *Wayne_Eddins@HUD.gov.*

FOR FURTHER INFORMATION CONTACT: Jade Banks, Senior Policy Advisor, Office of

Labor Relations, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; *Jade_M._Banks@hud.gov;* telephone (202) 708–0370 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Employee Questionnaire.

OMB Control Number, if applicable: None.

Description of the need for the information and proposed use: HUD and local agencies administering HUD-assisted programs must enforce Federal wage and reporting requirements on covered HUD-assisted construction and maintenance work. Enforcement activities include contacting laborers and mechanics and requesting information about their employment on covered projects. In addition, HUD and local agencies may be contacted by the workers or by others who wish to file a complaint of labor standards violation(s). HUD and local agencies have used many formats to collect worker information and to record complainant information. HUD proposes to standardize and institute two forms for these collections: an employee questionnaire and a complaint intake form. The questionnaire may be mailed to employees or may be otherwise provided to them to complete and return to HUD or the local agency. Complaint intake forms will be used by HUD and local agency personnel to record information provided by complainants about the nature of the alleged violation(s). Both forms may be supplemented with additional pages, as needed. Responses and the provision of supplemental information is voluntary on the part of questionnaire respondents. Questionnaire responses and complaint intake forms must be retained by the HUD and local agencies to document the sufficiency of enforcement efforts.

Agency form numbers, if applicable: To be assigned.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Item	Number of respondents	Amount of time required (in hrs.)	Total time required (in hrs.)/annum
Questionnaires	10,000	.25–.5	2,500–5,000
Complaint Intake Form	2,000	.25–.5	500–1,000
Recordkeeping	12,000	.25–.5	3,000–6,000
Total Annual Burden			6,000–12,000

Status of the proposed information collection: Existing collection in use without an OMB control number.

Authority: section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 9, 2003.

Frank L. Davis,

Director, Office of Departmental Operations and Coordination.

[FR Doc. 03–9806 Filed 4–18–03; 8:45 am]

BILLING CODE 4210–18–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4849–N–04]

Notice of Proposed Information Collection: Comment Requested; Maintenance Wage Rate Recommendation, Certification, and Survey

AGENCY: Office of Departmental Operations and Coordination, Office of Labor Relations, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 20, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 800a, Washington, DC 20410 or *Wayne_Eddins@HUD.gov.*

FOR FURTHER INFORMATION CONTACT: Jade Banks, Senior Policy Advisor, Office of Labor Relations, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410 or *JadeM.Banks@hud.gov,* (202) 708–0370 (this is not a toll-free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the

burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Maintenance Wage Rate Recommendation, Certification and Survey.

OMB Control Number, if applicable: None.

Description of the need for the information and proposed use: Public housing agencies (PHAs) and Tribally-Designated Housing Entities (TDHEs) are required to ensure that maintenance laborers and mechanics are paid no less than prevailing wages that are determined or adopted by HUD (section 12(a), U.S. Housing Act of 1937, as amended; section 104(b), Native American Housing Assistance and Self-Determination Act of 1996, as amended). Except that, TDHEs may, at their discretion, implement tribally-determined prevailing maintenance wage rates which would apply in place of HUD-determined or -adopted wage rates.

HUD determines or adopts a schedule of prevailing maintenance wage rates for each PHA and TDHE (except for those TDHEs that implement tribally-determined prevailing wage rates), annually, coinciding with the agency's fiscal year. In order to ensure that the wage rates are reflective of current economic conditions, HUD requests each PHA and TDHE to submit a recommendation of prevailing wage rates for HUD consideration. PHA and TDHE recommendations may be based on a wide variety of economic indicators including, at the discretion of the PHA or TDHE, the results of a wage survey that the PHA or TDHE may conduct of maintenance employers in their operating jurisdiction. In addition, HUD may conduct a maintenance wage rate survey in the absence of a PHA/TDHE recommendation or to evaluate a recommendation that has been provided by a PHA or TDHE.

In order to assist PHAs and TDHEs to submit prevailing wage recommendations and, if they choose, to conduct and evaluate the results of a maintenance wage survey, and to assist HUD personnel in the conduct and evaluation of a maintenance wage survey, HUD proposes to institute three forms: a Maintenance Wage Rate Recommendation and Certification; a Maintenance Wage Rate Survey Summary; and a Survey of Maintenance Wage Rates. PHA or TDHE submission of a recommendation is highly encouraged by HUD. In the absence of an agency recommendation, HUD will issue a prevailing wage rate schedule based upon its own actions which may include a maintenance wage survey conducted by HUD. Participation in any maintenance wage survey conducted by a PHA, TDHE or HUD, is voluntary on the part of maintenance employers. Maintenance wage rate recommendations, survey summaries and survey responses must be retained by PHAs, TDHEs and HUD to document compliance with the statutory labor standards provisions.

Agency form numbers, if applicable: To be assigned.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Item	Number of respondents	Amount of time required (hours)	Total time required/annum (hours)
Maintenance Wage Rate Recommendation	3,240	4	12,960
Survey Summary	1,640	4	6,560
Survey Form Agency Evaluation	41,000	8	328,000
Survey Form Employer Response	41,000	4	164,000
Record Keeping	3,240	1	3,240
Total Annual Burden			514,760

Status of the proposed information collection: Existing collection in use without an OMB control number.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 9, 2003.

Frank L. Davis,

Director, Office Departmental Operations and Coordination.

[FR Doc. 03–9807 Filed 4–18–03; 8:45 am]

BILLING CODE 4210–18–P

Department of Housing and Urban Development

[Docket No. FR–4815–N–19]

Notice of Submission of Proposed Information Collection to OMB: American Housing Survey (AHS)—2003 National Sample

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 21, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number (2528–0017) and should be sent to: Lauren Wittenberg, OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503; Fax number (202) 395–6974; e-mail *Lauren_Wittenberg_omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, AYO, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410; e-mail *Wayne_Eddins@HUD.gov;* telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: American Housing Survey (AHS)—2003 National Sample.

OMB Approval Number: 2528–0017.

Form Numbers: AHS–26, AHS–27, AHS–28.

Description of the Need for the Information and its Proposed Use: The 2003 AHS–N is a longitudinal study that provides a periodic measure on the quality, availability, and cost of housing for the nation. The study also provides information on demographic and other characteristics of the occupants. Federal and local agencies use AHS data to evaluate housing issues.

Respondents: Individuals or households.

Frequency of Submission: On occasion, Biannually, Reinterview.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	63,387	0.8		0.6		35,169

Total Estimated Burden Hours: 35,169.

Status: Revision of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 11, 2003.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 03–9808 Filed 4–18–03; 8:45 am]

BILLING CODE 4210–72–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 5-Year Review of the Marbled Murrelet and the Northern Spotted Owl

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a 5-year review of the marbled murrelet (*Brachyramphus marmoratus marmoratus*) and the northern spotted owl (*Strix occidentalis caurina*) under section 4(c)(2)(A) of the Endangered Species Act of 1973, as amended (Act). The purpose of the review is to ensure that the classification of species' as threatened or endangered on the List of Endangered and Threatened Wildlife and Plants (List) are accurate.

The 5-year review is an assessment of the best scientific and commercial data available at the time of the review. Therefore, we are requesting submission of any new information (best scientific and commercial data) on the marbled murrelet and the northern spotted owl since their original listings in 1992 and 1990, respectively. If the present classification of these species is not consistent with the best scientific and commercial information available, we may, at the conclusion of this review, initiate a separate action to propose changes to the List accordingly.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than June 20, 2003. However, we will continue to accept new information about any listed species at any time.

ADDRESSES: Submit information to the Field Office Supervisor, Attention Owl and Murrelet 5-year Review, Oregon Fish and Wildlife Office, 2600 SE. 98th Avenue, Suite 100, Portland, Oregon 97266. Information received in response to this notice and review results will be available for public inspection by appointment, during normal business hours, at the above address. New information regarding the northern spotted owl may be sent electronically to *owl_information@r1.fws.gov*. New information regarding the marbled murrelet may be sent electronically to *murrelet_information@r1.fws.gov*.

FOR FURTHER INFORMATION CONTACT: For the marbled murrelet, contact Lee Folliard at the above address, or at 503/231–6179. For the northern spotted owl, contact Robin Bown at the above address, or at 503/231–6179.

SUPPLEMENTARY INFORMATION:

Why Is a 5-year Review Conducted?

Section 4(c)(2)(A) of the Act requires that we conduct a review of listed species at least once every 5 years. We are then, under section 4(c)(2)(B) and the provisions of subsection (a) and (b), to determine, on the basis of such a review, whether or not any species should be removed from the List (delisted), or reclassified from endangered to threatened, or threatened to endangered. Our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the marbled murrelet and northern spotted owl.

The 5-year review considers all new information available at the time of the review. This review will consider the best scientific and commercial data that has become available since the current listing determination or most recent status review, such as:

A. Species biology including, but not limited to, population trends, distribution, abundance, and demographics, and genetics;

B. Habitat conditions including, but not limited to, amount, distribution, and suitability;

C. Conservation measures that have been implemented that benefit the species;

D. Threat status and trends (see five factors under heading ''How do we determine whether a species is endangered or threatened?'');

E. Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Why Is the Review Being Conducted for the Owl and Murrelet at This Time?

Conducting a 5-year review for these two species at this time was agreed to in connection with proposed settlement of two lawsuits, *Western Council of Industrial Workers* v. *Secretary of the Interior*, Civil No. 02–6100—AA (D. Or.) and *American Forest Resource Council* v. *Secretary of the Interior*, Civil No. 02–6087–AA (D. Or.). These settlement agreements are currently pending consideration by the District Court in Oregon. The 5-year review will consider each species' population status, and the threats to each species. The review will consider information that has become available since the original listing determination, such as: population and demographic trend data; studies of dispersal and habitat use; genetics and species competition investigations; surveys of habitat amount, quality, and distribution; adequacy of existing regulatory mechanisms; and management and conservation planning information. The 5-year review will assess: (a) Whether new information suggests that the species' population is increasing, declining, or stable; (b) whether existing threats are increasing, the same, reduced, or eliminated; (c) if there are any new threats; and (d) if new information or analysis calls into question any of the conclusions in the original listing determination as to the species' status. The review will also apply this new information to consideration of the appropriate application of the Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722) to the listed entity, if applicable.

How Are the Marbled Murrelet and the Northern Spotted Owl Currently Listed?

The List is found in 50 CFR 17.11 (wildlife) and 17.12 (plants). However, amendments to the List through final rules are published in the **Federal Register**. The List is also available on our Internet site at *http://endangered.fws.gov/wildlife.html#Species*. In Table 1 below, we provide a summary of the listing information for the marbled murrelet and the northern spotted owl.

TABLE 1.—SUMMARY OF THE LISTING INFORMATION FOR THE MARBLED MURRELET AND THE NORTHERN SPOTTED OWL

Common name	Scientific name	Status	Where listed	Final listing rule
Murrelet, marbled	*Brachyramphus marmoratus marmoratus*.	Threatened	U.S.A. (CA, OR, WA)	57 FR 45328 (01–Oct–92).
Owl, northern spotted	*Strix occidentalis caurina*	Threatened	All populations throughout range.	55 FR 26114 (26–Jun–90).

Definitions Related to This Notice

The following definitions are provided to assist those persons who contemplate submitting information regarding the species being reviewed:

A. *Species* includes any species or subspecies of fish, wildlife, or plant, and any distinct population segment of any species of vertebrate, which interbreeds when mature.

B. *Distinct Population Segment* is defined in our February 7, 1996, Policy Regarding the Recognition of Distinct Vertebrate Population Segments (61 FR 4722). For a population to be listed under the Act as a distinct vertebrate population segment, three elements are considered: (1) The discreteness of the population segment in relation to the remainder of the species to which it belongs; (2) the significance of the population segment to the species to which it belongs; and (3) the population segment's conservation status in relation to the Act's standards for listing (*i.e.*, is the population segment endangered or threatened?). Distinct population segments of vertebrate species, as well as subspecies of all listed species, may be proposed for separate reclassification or for removal from the list. Any distinct population segment of a vertebrate taxon that was listed prior to the implementation of this policy will be reevaluated on a case-by-case basis as recommendations are made to change the listing status for that distinct population segment. The appropriate application of the policy will also be considered in the 5-year reviews of the status of listed species required by section 4(c)(2) of the Act.

C. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

D. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

How Do We Determine Whether a Species Is Endangered or Threatened?

Section 4(a)(1) of the Act establishes that we determine whether a species is endangered or threatened based on one or more of the following five factors:

A. The present or threatened destruction, modification, or curtailment of its habitat or range;

B. Overutilization for commercial, recreational, scientific, or educational purposes;

C. Disease or predation;

D. The inadequacy of existing regulatory mechanisms; or

E. Other natural or manmade factors affecting its continued existence. In summary, our determination required under section 4(b)(1) of the Act shall be made on the basis of the best scientific and commercial data available.

What Could Happen As a Result of This Review?

If we find that there is new information concerning the marbled murrelet or northern spotted owl indicating a change in classification is warranted, we may propose new rules that could do one of the following: (a) Reclassify the species from threatened to endangered; or (b) remove the species from the List.

Any Distinct Population Segment (DPS) of a vertebrate taxon that was listed prior to implementation of the DPS policy will be reevaluated on a case-by-case basis as recommendations are made to change the listing status for that distinct population segment. The appropriate application of the DPS policy will also be considered in the 5-year reviews of the status of listed species required by section 4(c)(2) of the Act.

What Will Happen if No New Information Is Submitted for the Species Under Review?

No changes will be made to the classification of the marbled murrelet or northern spotted owl as a result of this review unless we find that there is new information indicating that such action is warranted. However, we are not limited to reviewing listed species only during a 5-year review. We may review a species at any time, and may initiate reclassification or delisting whenever the best available scientific and commercial information indicates that such action is warranted.

Public Solicitation of New Information:

We request any new information concerning the status of the northern spotted owl and marbled murrelet. New information is considered to be scientific and commercial data that has become available since the time of the species current listing determination or most recent status review. In particular, we are seeking information such as:

A. Species biology including, but not limited to, population trends, distribution, abundance, demographics, and genetics;

B. Habitat conditions including, but not limited to, amount, distribution, and suitability;

C. Conservation measures that have been implemented that benefit the species;

D. Threat status and trends (see five factors under heading ''How do we determine whether a species is endangered or threatened?'');

E. Other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Specifically for the owl and murrelet we are interested in new information, analyses, and/or reports for these species that summarize and interpret: demographic or population trends; genetics and competition; habitat amount, use, and distribution; and adequacy of existing regulatory mechanisms, management, and conservation planning. We request this information for all applicable land ownerships within the range of both species.

Information submitted should be supported by documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources.

Authority

This document is published under the authority of the Endangered Species Act (16 U.S.C. 1531 *et seq.*).

Dated: April 2, 2003.

Steve Williams,

Director, Fish and Wildlife Service.

[FR Doc. 03–9671 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[CO–934–5700; COC63737]

Notice of Proposed Reinstatement of Terminated Oil and Gas Leases

Pursuant to the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2–3 (a) and (b)(1), a petition for reinstatement of oil and gas lease COC 63737 for lands in Weld county, Colorado, was timely filed and was accompanied by all the required rentals accruing from the date of termination. The lessee has agreed to the amended lease terms for rentals and royalties at the rate of $10.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required $500 administrative fee and $166 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease COC 63737 effective June 1, 2002, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Beverly A. Derringer,

Chief, Fluid Minerals Adjudication.

[FR Doc. 03–9715 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–930–03–1310–LAES 47736]

Proposed Reinstatement of Terminated Oil and Gas Lease, Louisiana

AGENCY: Bureau of Land Management, Interior.

ACTION: Proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of Public Law 97–451, a petition for reinstatement of oil and gas lease, LAES 47736, Cameron Parish, Louisiana, was timely filed and accompanied by all required rentals and royalties. No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rental and royalties at rates of $10 per acre and 12⅔ percent. Payment of $500 in administrative fees and a $158 publication fee has been made.

FOR FURTHER INFORMATION, CONTACT: Gina Goodwin, Land Law Examiner, BLM Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153 at (703) 440–1534.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management is proposing to reinstate the lease effective the date of termination, June 1, 2002, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above. This is in accordance with section 31(d) and (e) of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 188 (d) and (e)).

Dated: March 6, 2003.

Michael D. Nedd,

State Director.

[FR Doc. 03–9716 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–01–5410–EQ–B172; CACA 43937]

Conveyance of Mineral Interests in California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of segregation.

SUMMARY: The mineral interests owned by the United States in the land described in this notice, aggregating 160 acres, are segregated and made unavailable for filings under the general mining laws and the mineral leasing laws to determine the suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976. The mineral interests may be conveyed in whole or in part upon favorable mineral examination. The purpose is to allow consolidation of surface and subsurface of minerals ownership where there are no known mineral values or in those instances where the reservation interferes with or precludes appropriate non-mineral development and such development is a more beneficial use of the land than the mineral development.

FOR FURTHER INFORMATION CONTACT: Kathy Gary, California State Office, Federal Office Building, 2800 Cottage Way, Room W–1834, Sacramento, California 95825, (916) 978–4677.

Serial No. CACA 4393757

T. 31 N., R. 11 W., Mount Diablo Meridian
Sec. 4, NW¼
County—Trinity.

Minerals Reservation—All coal and other minerals.

Upon publication of this notice of segregation in the **Federal Register** as provided in 43 CFR 2720.1–1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the mining and mineral leasing laws. The segregative effect of the application shall terminate by publication of an opening order in the **Federal Register** specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interest; or two years from the date of publication of this notice, whichever occurs first.

Howard K. Stark,

Chief, Branch of Land Management.

[FR Doc. 03–9714 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–03–1420–BJ]

Notice of Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

SUPPLEMENTARY INFORMATION:

Indian Meridian, Oklahoma

T. 26 N., R. 25 E., approved December 10, 2002, for Group 72 OK;
T. 17 N., R. 23 E., approved March 14, 2003, for Group 91 OK;
T. 14 N., R. 24 E., approved March 10, 2003, for Group 96 OK;

New Mexico Principal Meridian, New Mexico

T. 31 N., R. 13 W., approved January 29, 2003, for Group 989 NM;
T. 30 N., R. 13 W., approved December 19, 2002, for Group 989 NM;
T. 24 N., R. 11 E., approved March 10, 2003, for Group 997 NM;
Antoine Leroux Grant & Antonio Martinez or Lucero De Godoi Grant, approved September 26, 2002, for Group 968 NM.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of a protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

FOR FURTHER INFORMATION CONTACT: These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, PO Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: April 3, 2003.

Stephen W. Beyerlein,

Acting Chief Cadastral Surveyor.

[FR Doc. 03–9707 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–030–2640–BH; AZA 30192]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 80 acres for a period of 20 years to protect the Tyro Mill Site Reclamation Project. 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 mineral and geothermal leasing and material sales.

DATES: Comments should be received on or before July 21, 2003.

ADDRESSES: Comments should be sent to the Kingman Field Office Manager, BLM, 2475 Beverly Avenue, Kingman, AZ 86401.

FOR FURTHER INFORMATION CONTACT: Art Smith, Kingman Field Office, BLM, 2475 Beverly Avenue, Kingman, AZ 86401, 928–692–4433.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has filed an application to withdraw the following described land from location and entry under the United States mining laws, subject to valid existing rights:

Gila and Salt River Meridian

T. 21 N., R. 20 W.,
Sec. 7, N½NW¼.

The area described contains 80 acres in Mohave 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 Kingman Field Office Manager.

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 to the Kingman Field Office Manager, within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a newspaper 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.

Dated: April 14, 2003.

Michael A. Taylor,

Deputy State Director, Resources Division.

[FR Doc. 03–9713 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of an information collection (1010–0071).

SUMMARY: To comply with the Paperwork Reduction Act of 1995 (PRA), we are inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval.

The information collection request (ICR) concerns the paperwork requirements in the regulations under 30 CFR 203, ''Relief or Reduction in Royalty Rates.''

DATES: Submit written comments by June 20, 2003.

ADDRESSES: Mail or hand carry comments to the Department of the Interior; Minerals Management Service; Attention: Rules Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817. If you wish to e-mail comments, the address is: *rules.comments@mms.gov.* Reference ''Information Collection 1010–0071'' in your e-mail subject line and mark your message for return receipt. Include your name and return address in your message.

FOR FURTHER INFORMATION CONTACT: Arlene Bajusz, Rules Processing Team, (703) 787–1600. You may also contact Arlene Bajusz to obtain a copy, at no cost, of the regulations that require the subject collection of information.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 203, Relief or Reduction in Royalty Rates.

OMB Control Number: 1010–0071.

Abstract: The Outer Continental Shelf (OCS) Lands Act, as amended by Public Law 104–58, Deep Water Royalty Relief Act (DWRRA), gives the Secretary of the Interior (Secretary) the authority to reduce or eliminate royalty or any net profit share specified in OCS oil and gas leases to promote increased production. The DWRRA also authorized the Secretary to suspend royalties when necessary to promote development or recovery of marginal resources on producing or non-producing leases in the Gulf of Mexico (GOM) west of 87 degrees, 30 minutes West longitude.

Section 302 of the DWRRA provides that new production from a lease in existence on November 28, 1995, in a water depth of at least 200 meters, and in the GOM west of 87 degrees, 30 minutes West longitude qualifies for royalty suspension in certain situations. To grant a royalty suspension, the Secretary must determine that the new production or development would not be economic without royalty relief. The Secretary must then determine the volume of production on which no royalty would be due in order to make the new production from the lease economically viable. This determination must be done on a case-by-case basis. By regulation published January 15, 2002, (67 FR 1862) production from leases in the same water depth and area issued after November 28, 2000, also can qualify for royalty suspension in addition to any that may be included in their lease terms.

In addition, Federal policy and statute require us to recover the cost of services that confer special benefits to identifiable non-Federal recipients. The Independent Offices Appropriation Act (31 U.S.C. 9701), OMB Circular A–25, and the Omnibus Appropriations Bill (Pub. L. 104–133, 110 Stat. 1321, April 26, 1996) authorize MMS to collect these fees to reimburse us for the cost to process applications or assessments.

Regulations at 30 CFR part 203 implement these statutes and policy and require respondents to pay a fee to request royalty relief. Section 30 CFR 203.3 states that, ''We will specify the necessary fees for each of the types of royalty-relief applications and possible MMS audits in a Notice to Lessees. We will periodically update the fees to reflect changes in costs as well as provide other information necessary to administer royalty relief.''

The MMS use the information to make decisions on the economic viability of leases requesting a suspension or elimination of royalty or net profit share. These decisions have enormous monetary impacts to both the lessee and the Federal government. Royalty relief can lead to increased production of natural gas and oil, creating profits for lessees and royalty and tax revenues for the government that they might not otherwise receive. We could not make an informed decision without the collection of information required by 30 CFR part 203.

We will protect information from respondents considered proprietary under the Freedom of Information Act (5 U.S.C. 552) and its implementing regulations (43 CFR 2) and 30 CFR 203.63(b) and 30 CFR 250.196. No items of a sensitive nature are collected. Responses are mandatory or required to obtain or retain a benefit.

Frequency: On occasion.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS oil and gas lessees.

Estimated Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual reporting burden for this collection is 8,650 hours. The following chart details the individual components and respective hour burden estimates of this ICR. In calculating the burdens, we assumed that respondents perform certain requirements in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

Reporting or recordkeeping requirement 30 CFR part 203	Application/Audit Fees		
	Average No. annual responses	Hour burden	Annual burden hours
OCS Lands Act Reporting			
Application—leases that generate earnings that cannot sustain continued production (end-of-life lease).	2 Applications	100	200
	Application 2 × $12,000 = $24,000 * Audit 1 × $10,000 = $10,000		
Application—apart from formal programs for royalty relief for marginal producing lease (expect < 1 per year).	1 Application	250	250
	Application 1 × $15,000 = $15,000 * Audit 1 × $10,000 = $10,000		
§ 203.55 Renounce relief arrangement (seldom, if ever will be used; minimal burden to prepare letter).	1 Letter	1	1
§ 203.81, 203.83 through 203.89 Required reports	Burden included with applications		0
OCS Lands Act Reporting Subtotal	4 responses	N/A	451

Reporting or recordkeeping requirement 30 CFR part 203	Application/Audit Fees		
	Average No. annual responses	Hour burden	Annual burden hours
	Processing Fees = $59,000		
DWRAA Reporting			
Application—leases in designated areas of GOM deep water acquired in lease sale before 11/28/95 or after 11/28/00 and are producing (deep water expansion project).	1 Application	2,000	2,000
	Application 1 × $39,000 = $39,000 No Audit		
Application—leases in designated areas of deep water GOM, acquired in lease sale before 11/28/95 or after 11/28/00, that have not produced (pre-Act or post-2000 deep water leases).	1 Application	2,000	2,000
	Application 1 × $49,000 = $49,000 * Audit 1 × $25,000 = $25,000		
Application—short form to add or assign pre-Act lease	1 Application	40	40
	Application 1 × $1,000 = $1,000 No Audit		
Application—preview assessment (seldom if ever will be used as applicants generally opt for binding determination by MMS instead).	1 Application	900	900
	Application 1 × $46,600 = $46,600 No Audit		
Application—apart from formal programs for royalty relief for marginal expansion project or marginal non-producing lease (expect < 1 per year).	1 Application	1,000	1,000
	Application 1 × $49,000 = $49,000 Audit 1 × $20,000 = $20,000		
Redetermination	1 Redetermination	500	500
	Application 1 × $32,000 = $32,000 * Audit 1 × $25,000 = $25,000		
§ 203.70, 203.81, 203.90, 203.91 Submit fabricator's confirmation report	2 Reports	20	40
§ 203.70, 203.81, 203.90, 203.92 Submit post-production development report	2 Reports *	50	100
§ 203.77 Renounce relief arrangement (seldom, if ever will be used; minimal burden to prepare letter).	1 Letter	1	1
§ 203.79(a) Request reconsideration of MMS field designation	4 Requests	400	1,600
§ 203.79(c) Request extension of deadline to start construction	1 Request	2	2
§ 203.81, 203.83 through 203.89 Required reports	Burden included with applications		0
DWRRA Reporting Subtotal	16 Reponses	N/A	8,183
	Processing Fees = $286,600		
Recordkeeping Burden			
§ 203.91 Retain cost records for post-production development/fabrication reports (records retained as usual/customary business practice; minimal burden to make available at MMS request).	2 Recordkeepers	8	16
Total Annual Burden	22 Responses	N/A	8,650

* CPA certification expense burden also imposed on applicant.

Estimated Reporting and Recordkeeping "Non-Hour Cost" Burden: There are two non-hour costs associated with this information collection. The currently approved non-hour cost burden is $661,000. This estimate is based on:

(a) Application and audit fees. The total annual estimated cost burden for these fees is $345,600 (refer to burden chart).

(b) Cost of reports prepared by independent certified public accountants. Under § 203.81, a report prepared by an independent certified public accountant (CPA) must accompany the application and post-production report (expansion project, short form, and preview assessment applications are excluded). The OCS Lands Act applications will require this report only once; the DWRRA applications will require this report at

two stages—with the application and post-production development report for successful applicants. We estimate approximately seven submissions each year at an average cost of $45,000 per report, for a total estimated annual cost burden of $315,000.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. Until OMB approves a collection of information, you are not obligated to respond.

Comments: Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency " * * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *". Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Agencies must also estimate the "non-hour cost" burdens to respondents or recordkeepers resulting from the collection of information. Therefore, if you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information, monitoring, and record storage facilities. You should not include estimates for equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our submission for OMB approval. As a result of your comments, we will make any necessary adjustments to the burden in our submission to OMB.

Public Comment Policy: Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There may be circumstances in which we would withhold from the record a respondent's identity, as allowable by the law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: April 9, 2003.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 03–9695 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection, Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of an extension of a currently approved information collection (OMB Control Number 1010–0139).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995, we are inviting comments on a collection of information that we will submit to the Office of Management and Budget (OMB) for review and approval. The information collection request (ICR) is titled "30 CFR Part 216, Production Accounting; Subpart A, General Provisions; and Subpart B, Oil and Gas, General."

DATES: Submit written comments on or before June 20, 2003.

ADDRESSES: Submit written comments to Sharron L. Gebhardt, Regulatory Specialist, Minerals Management Service, Minerals Revenue Management, PO Box 25165, MS 320B2, Denver, Colorado 80225. If you use an overnight courier service, our courier address is Building 85, Room A–614, Denver Federal Center, Denver, Colorado 80225. You may also e-mail your comments to us at *mrm.comments@mms.gov.* Include the title of the information collection and the OMB control number in the "Attention" line of your comment. Also include your name and return address. Submit electronic comments as an ASCII file avoiding the use of special characters and any form of encryption. If you do not receive a confirmation we have received your email, contact Ms. Gebhardt at (303) 231–3211.

FOR FURTHER INFORMATION CONTACT: Sharron L. Gebhardt, telephone (303) 231–3211, FAX (303) 231–3385 or email *sharron.gebhardt@mms.gov.*

SUPPLEMENTARY INFORMATION:

Title: "30 CFR Part 216, Production Accounting; Subpart A, General Provisions; and Subpart B, Oil and Gas, General."

OMB Control Number: 1010–0139.

Bureau Form Number: Forms MMS–4054 and MMS–4058.

Abstract: The Secretary of the U.S. Department of the Interior (DOI) is responsible for collecting royalties from lessees who produce minerals from leased Federal and Indian lands. The Secretary is required by various laws to manage mineral resources production on Federal and Indian lands, collect the royalties due, and distribute the funds in accordance with those laws. The Secretary also has an Indian trust responsibility to manage Indian lands and seek advice and information from Indian beneficiaries. MMS performs the royalty management functions and assists the Secretary in carrying out DOI's Indian trust responsibility.

The financial accounting system is an integrated computer system that includes production reports submitted by lease/agreement operators and is designed to track minerals produced from Federal and Indian lands from the point of production to the point of disposition, or royalty determination, and/or point of sale. The financial accounting system also includes payment and sales volumes and values as reported by payors. The production and royalty volumes are compared to verify that proper royalties are received for the minerals produced.

The production reports provide MMS with ongoing information on lease, unit, or communitization agreement (lease/agreement) and facility production, sales volumes, and inventories. The reports summarize all operations on a lease/agreement or facility during a

reporting period. They identify production by the American Petroleum Institute well number and sales by product. Data collected are used as a method of cross-checking reported production with reported sales. Failure to collect this information will prevent MMS from ensuring that all royalties owed on lease production are paid. Additionally, the data is shared electronically with the Bureau of Land Management, MMS's Offshore Minerals Management, Bureau of Indian Affairs, and tribal and State governments so they can perform their lease management responsibilities.

Form MMS–4054, Oil and Gas Operations Report (OGOR), is a three-part form that identifies all oil and gas lease production and dispositions. The form is used for all production reporting for offshore Outer Continental Shelf and onshore Federal and Indian lands. Monthly production information is compared with monthly sales and royalty data submitted on Form MMS–2014, Report of Sales and Royalty Remittance, (OMB Control Number 1010–0140) to ensure proper royalties are paid on the oil and gas production reported to MMS. MMS uses the information from parts A, B, and C of the OGOR to track all oil and gas from the point of production to the point of first sale or other disposition. To streamline preparation of modified reports, the operator has the option of modifying the reporting line (delete/add by detail line) or replacing (overlaying) the previous report.

OGOR, Part A, Well Production: All operators submit part A, Well Production, for each lease or agreement with active wells until such wells are abandoned and inventories are disposed. Each line identifies a well/producing interval combination showing well status; days on production; volumes of oil, gas, and water produced; and any volumes injected during the report month.

OGOR, Part B, Product Disposition: For any month with production volumes, operators submit part B, Product Disposition, to identify the sales, transfers, and lease use of production reported on part A. A separate line for each disposition shows: (1) The volume of oil, gas, or water; (2) the sales meter or other meter identifier; (3) the gas plant for instances where gas was processed prior to royalty determination; and (4) the quality of production sold.

OGOR, Part C, Product Sales From Facility: The lease operators who store their production before selling it must submit part C, Product Sales From Facility. Separate lines for each product identify the storage facility, sales meter if applicable, quality of production sold, beginning and ending storage inventory, volume of sales, and volumes of other gains and losses to inventory.

Form MMS–4058, Production Allocation Schedule Report (PASR), is submitted monthly by operators of the facilities and measurement points where production from an offshore lease or metering point is commingled with production from other sources before it is measured for royalty determination. MMS uses the data to determine whether sales reported by the lessee are reasonable. Each line identifies a lease or metering point and allocated sales or transfer volumes. Delivered production volumes are no longer reported. Space has been provided on each detail line for the operator's property name (area/block), and a column has been added for indicating whether the operator is injecting oil, gas, or both into the pipeline system. Beginning and ending inventory are no longer reported. To streamline preparation of modified reports, the operator has the option of modifying (delete/add by detail line) or replacing (overlaying) the previous report.

No proprietary information will be submitted to MMS under this collection. No items of a sensitive nature are collected. The requirement to respond is mandatory.

We have also changed the title of this ICR from ''Production Accounting and Auditing System Oil and Gas Reports (Forms MMS–4054, MMS–4055, MMS–4056, and MMS–4058)'' to ''30 CFR Part 216, Production Accounting; Subpart A, General Provisions; and Subpart B, Oil and Gas, General'' to clarify the regulatory language we are covering under 30 CFR part 216.

Frequency of Response: Monthly and as required.

Estimated Number and Description of Respondents: 2,500 industry operators.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 76,630 hours.

The burden estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The following chart shows the breakdown of the estimated burden hours by CFR section and paragraph:

RESPONDENT ANNUAL BURDEN HOUR CHART

30 CFR part 216 subparts A and B	Reporting requirement	Burden hours per response	Annual Number of responses	Annual burden hours
216.11; 216.16(a); 216.21; 216.40(d); 216.53(a), (b), and (c).	You must submit your Oil and Gas Operations Report, Form MMS–4054, in accordance with electronic reporting requirements * * * All reporting forms * * * should be mailed to the Minerals Management Service, Minerals Revenue Management, * * * The reporter shall submit accurately, completely, and timely, * * * all information forms and other information required by MMS. * * * The reporter shall have the burden of proving that a reporting problem was unavoidable. You must file an Oil and Gas Operations Report, Form MMS–4054, * * * You must submit a Form MMS–4054 for each well for each calendar month * * * MMS must receive your completed Form MMS–4054 * * * Electronically * * * Other than electronically * * *.	.25 hour (Electronic) .25 hour (Manual) ...	294,000 6,000	73,500 1,500
216.56(a), (b), and (c)	Any operator of an offshore Facility Measurement Point * * * must file a Production Allocation Schedule Report (Form MMS–4058). You must submit a Production Allocation Schedule Report, Form MMS–4058, for each calendar month * * * MMS must receive your Form MMS–4058 * * * Electronically * * * Other than electronically * * *.	.1167 hour (Electronic). .25 hour (Manual) ...	7,280 33,120	850 780

RESPONDENT ANNUAL BURDEN HOUR CHART—Continued

30 CFR part 216 subparts A and B	Reporting requirement	Burden hours per response	Annual Number of responses	Annual burden hours
216.57	Operators who have been granted a reduced royalty rate(s) by BLM must submit a Stripper Royalty Rate Reduction Notification (Form MMS–4377) to MMS * * *	Burden covered under OMB Control Number 1010–0090.		
Total			310,400	76,630

Estimated Annual Reporting and Recordkeeping ''Non-hour Cost'' Burden: We have identified no ''non-hour'' cost burdens.

Comments: The PRA (44 U.S.C. 3501, *et seq.*) provides 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. Before submitting an ICR to OMB, PRA section 3506(c)(2)(A) requires each agency ''* * * to provide notice * * * and otherwise consult with members of the public and affected agencies concerning each proposed collection of information * * *.'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

The PRA also requires agencies to estimate the total annual reporting ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. We have not identified non-hour cost burdens for this information collection. If you have costs to generate, maintain, and disclose this information, you should comment and provide your total capital and startup cost components or annual operation, maintenance, and purchase of service components. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

We will summarize written responses to this notice and address them in our ICR submission for OMB approval, including appropriate adjustments to the estimated burden. We will provide a copy of the ICR to you without charge upon request and the ICR will also be posted on our Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.*

Public Comment Policy: We will post all comments in response to this notice on our Web site at *http://www.mrm.mms.gov/Laws_R_D/FRNotices/FRInfColl.htm.* We will also make copies of the comments available for public review, including names and addresses of respondents, during regular business hours at our offices in Lakewood, Colorado. Individual respondents may request we withhold their home address from the public record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you request that we withhold your name and/or address, state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: April 16, 2003.

Cathy J. Hamilton,

Acting Associate Director for Minerals Revenue Management.

[FR Doc. 03–9784 Filed 4–18–03; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–434 and 731–TA–1030–1032 (Preliminary)]

4,4'-Diamino-2,2'-Stilbenedisulfonic Acid and Stilbenic Fluorescent Whitening Agents from China, Germany, and India

AGENCY: International Trade Commission.

ACTION: Notice of withdrawal of petition in countervailing duty and antidumping investigations.

SUMMARY: On April 10, 2003, the Department of Commerce and the Commission received a letter from petitioner in the subject investigations (Ciba Specialty Chemicals Corporation, Tarrytown, NY) withdrawing its petition. Commerce has not initiated investigations as provided for in sections 702(c) and 732(c) of the Tariff Act of 1930 (19 U.S.C. 1671a(c)/1673a(c)). Accordingly, the Commission gives notice that its countervailing duty and antidumping investigations concerning 4,4'-diamino–2,2'-stilbenedisulfonic acid and stilbenic fluorescent whitening agents from China, Germany, and India (investigations Nos. 701–TA–434 and 731–TA–1030–1032 (Preliminary)) are discontinued.

EFFECTIVE DATE: April 14, 2003.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. 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 (*http://www.usitc.gov*). The public record for these investigations may be viewed on

the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

By order of the Commission.

Issued: April 15, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–9685 Filed 4–18–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–204–10]

Certain Circular Welded Carbon Quality Line Pipe:[1] Evaluation of the Effectiveness of Import Relief

AGENCY: International Trade Commission.

ACTION: Institution of an investigation and scheduling of a hearing under section 204(d) of the Trade Act of 1974 (19 U.S.C. 2254(d)) (the Act).

SUMMARY: Pursuant to section 204(d) of the Act, the Commission has instituted investigation No. TA–204–10, Certain Circular Welded Carbon Quality Line Pipe: Evaluation of the Effectiveness of Import Relief, for the purpose evaluating the effectiveness of the relief action imposed by the President on imports of certain circular welded carbon quality line pipe under section 203 of the Act, which terminated on March 1, 2003.

Background

The President imposed the relief action on March 1, 2000, in the form of a tariff following receipt of an affirmative injury determination and relief recommendation from the Commission in December 1999. The relief was imposed for a period of 3 years and 1 day. *See* Proclamation 7274 of February 18, 2000 (65 FR 9193), as modified by Proclamation 7585 of August 28, 2002 (67 FR 56207). Section 204(d) of the Act requires the Commission, following termination of a relief action, to evaluate the effectiveness of the action in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b) of the Act. The Commission is required to submit a report on the evaluation to the President and the Congress no later than 180 days after the day on which the relief action terminated.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, subparts A through and E), and part 206, subparts A and F (19 CFR part 206, subparts A and F).

EFFECTIVE DATE: April 11, 2003.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202–708–4101) or Jim McClure (202–205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*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.*

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 14 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Public hearing.—As required by statute, the Commission has scheduled a hearing in connection with this investigation. The hearing will be held beginning at 9:30 a.m. on June 25, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 18, 2003. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 23, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is June 18, 2003. Parties may also file posthearing briefs. The deadline for filing posthearing briefs is July 2, 2003. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement concerning the matters to be addressed in the report on or before July 2, 2003. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules. The report that the Commission sends to the President may include confidential business information. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 204(d) of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

By order of the Commission.

Issued: April 15, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–9684 Filed 4–18–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–204–11]

Certain Steel Wire Rod:[1] Evaluation of the Effectiveness of Import Relief

AGENCY: United States International Trade Commission.

[1] Certain circular welded carbon quality line pipe is provided for in subheadings 7306.10.10 and 7306.10.50 of the Harmonized Tariff Schedule of the United States (HTS).

[1] Certain steel wire rod is provided for in subheadings 7213.91, 7213.99, 7227.20, and 7227.90.60 of the Harmonized Tariff Schedule of the United States (HTS).

ACTION: Institution of an investigation and scheduling of a hearing under section 204(d) of the Trade Act of 1974 (19 U.S.C. 2254(d)) (the Act).

SUMMARY: Pursuant to section 204(d) of the Act, the Commission has instituted investigation No. TA–204–11, Certain Steel Wire Rod: Evaluation of the Effectiveness of Import Relief, for the purpose of evaluating the effectiveness of the relief action imposed by the President on imports of certain steel wire rod under section 203 of the Act, which terminated on March 1, 2003.

Background

The President imposed the relief action on March 1, 2000, in the form of a tariff-rate quota following receipt of an affirmative injury determination and relief recommendation from the Commission on July 12, 1999. The relief was imposed for a period of 3 years and 1 day. *See* Proclamation 7273 of February 16, 2000 (65 FR 8621), as modified by Proclamation 7205 of November 21, 2001 (66 FR 59353). Section 204(d) of the Act requires the Commission, following termination of a relief action, to evaluate the effectiveness of the action in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b) of the Act. The Commission is required to submit a report on the evaluation to the President and the Congress no later than 180 days after the day on which the relief action terminated 203(b) of the Act.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201, subparts A through and E), and part 206, subparts A and F (19 CFR part 206, subparts A and F).

EFFECTIVE DATE: April 11, 2003.

FOR FURTHER INFORMATION CONTACT: Karen Taylor (202) 708–4101) or Jim McClure ((202) 205–3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter 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 (*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.*

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than 14 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Public hearing.—As required by statute, the Commission has scheduled a hearing in connection with this investigation. The hearing will be held beginning at 9:30 a.m. on June 26, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 19, 2003. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 23, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the hearing are governed by sections 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is June 19, 2003. Parties may also file posthearing briefs. The deadline for filing posthearing briefs is July 3, 2003. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement concerning the matters to be addressed in the report on or before July 3, 2003. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's rules. The report that the Commission sends to the President may include confidential business information. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with section 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 204(d) of the Trade Act of 1974; this notice is published pursuant to section 206.3 of the Commission's rules.

By order of the Commission.
Issued: April 15, 2003.

Marilyn R. Abbott,
Secretary to the Commission.

[FR Doc. 03–9683 Filed 4–18–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; Request for Information Concerning Labor Rights in Morocco and Its Laws Governing Exploitative Child Labor

AGENCIES: Office of the Secretary, Labor; Office of the United States Trade Representative and Department of State.

ACTION: Request for public comments.

SUMMARY: This notice is a request for public comments to assist the Secretary of Labor, the United States Trade Representative, and the Secretary of State in preparing reports regarding labor rights in Morocco and describing the extent to which Morocco has in effect laws governing exploitative child labor. The Trade Act of 2002 requires reports on these issues and others when the President intends to use trade promotion authority procedures in connection with legislation approving and implementing a trade agreement. On October 1, 2002, in accordance with section 2104(a)(1) of the Trade Act of 2002, the United States Trade Representative (USTR), Ambassador Robert B. Zoellick, notified the Congress of the President's intent to enter into trade negotiations with Morocco. The interagency Trade Policy Staff Committee (TPSC) invited the public to provide written comments and/or oral testimony at a public hearing conducted on November 21, 2002, to assist USTR in formulating positions and proposals

with respect to all aspects of the negotiations (67 FR 63954) (Oct. 16, 2002). The first round of the U.S.-Morocco FTA negotiations took place January 20–24 in Washington, DC, and a second round took place in Geneva, Switzerland March 24–28. A third round is scheduled for June, with negotiations expected to be completed by the end of 2003. An agreement resulting from these negotiations will be subject to trade promotion authority procedures. The President assigned the functions of preparing reports regarding labor rights and the existence of laws governing exploitative child labor to the Secretary of Labor, in consultation with the Secretary of State and the United States Trade Representative. The Secretary of Labor further assigned these functions to the Secretary of State and the United States Trade Representative.

DATES: Public comments should be received no later than 5 p.m. June 5, 2003.

ADDRESSES: Persons submitting comments are strongly advised to make such submissions by electronic mail to the following address: *FRFTAMorocco@dol.gov.* Submissions by facsimile may be sent to: Betsy White at the Office of International Economic Affairs, Bureau of International Labor Affairs (202) 693–4851.

FOR FURTHER INFORMATION CONTACT: For procedural questions regarding the submissions, please contact Betsy White, Office of International Economic Affairs, Bureau of International Labor Affairs, at (202) 693–4919, facsimile (202) 693–4851. These are not toll-free numbers. Substantive questions concerning the labor rights report and/or the report on Morocco's laws governing exploitative child labor should be addressed to Jorge Perez-Lopez, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–4883.

SUPPLEMENTARY INFORMATION:

I. Background

The Trade Act of 2002 (Pub.L. 107–210) (the Trade Act) sets forth special procedures (Trade Promotion Authority) for approval and implementation of Agreements subject to meeting conditions and requirements in the Act. Division B of the Trade Act, entitled the Bipartisan Trade Promotion Authority Act of 2002. The Trade Act includes negotiating objectives and a listing of priorities for the President to promote in order to ''address and maintain United States competitiveness in the global economy'' in pursuing future trade agreements 19 U.S.C. 3802(a)–(c). The President delegated several of the functions in section 3802(c) to the Secretary of Labor. (E.O. 13277). These include the functions set forth in section 2102(c)(8), which requires that the President ''in connection with any trade negotiations entered into under this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating'' and the function in section 2102(c)(9), which requires that the President ''with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor.'' The notification letters to the Congress regarding the President's intent to enter into trade negotiations with Morocco be found on the USTR Web site at *http://www.ustr.gov/releases/2002/2002–10–01-morocco-house.PDF* and *http://www.ustr.gov/releases/2002/2002–10–01-morocco-senate.PDF.*

II. Information Sought

Interested parties are invited to submit written information as specified below to be taken into account in drafting the required reports. Materials submitted should be confined to the specific topics of the reports. In particular, agencies are seeking written submissions on the following topics:

1. Morocco's labor laws, including laws governing exploitative child labor, and Morocco's implementation and enforcement of such laws and regulations;
2. The situation in Morocco with respect to core labor standards;
3. Steps taken by Morocco to comply with International Labor Organization Convention 182 on the worst forms of child labor; and
4. The nature and extent, if any, of exploitative child labor in Morocco.

Section 2113(6) of the Trade Act defines ''core labor standards'' as:

(A) The right of association;

(B) The right to organize and bargain collectively;

(C) A prohibition on the use of any form of forced or compulsory labor;

(D) A minimum age for the employment of children; and

(E) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

III. Requirements for Submissions

This document is a request for facts or opinions submitted in response to a general solicitation of comments from the public. To ensure prompt and full consideration of submissions, we strongly recommend that interested persons submit comments by electronic mail to the following e-mail address: *FRFTAMorocco@dol.gov.* Persons making submissions by e-mail should use the following subject line: ''Morocco: Labor Rights and Child Labor Reports.'' Documents should be submitted in WordPerfect, MSWord, or text (.TXT) format. Supporting documentation submitted as spreadsheets is acceptable in Quattro Pro or Excel format. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the same file as the submission itself, and not as separate files. Written comments will be placed in a file open to public inspection at the Department of Labor, Room S–5317, 200 Constitution Avenue, NW., Washington DC and in the USTR Reading Room in Room 3 of the annex of the Office of the USTR, 1724 F Street, NW, Washington, DC 20508. An appointment to review the file at the Department of Labor may be made by contacting Betsy White at (202) 693–4919. An appointment to review the file at USTR may be made by calling (202) 395–6186. The USTR Reading Room is generally open to the public from 10 a.m.—12 noon and 1–4 p.m. Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Signed at Washington, DC, this 16th of April 2003.

Thomas B. Moorhead,

Deputy Under Secretary for International Affairs.

[FR Doc. 03–9796 Filed 4–18–03; 8:45 am]

BILLING CODE 4510–28–P

DEPARTMENT OF LABOR

Office of the Secretary

Bureau of International Labor Affairs; Request for Information Concerning Labor Rights in Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua and Their Laws Governing Exploitative Child Labor

AGENCIES: Office of the Secretary, Labor; Office of the United States Trade Representative and Department of State.

ACTION: Request for public comments.

SUMMARY: This notice is a request for public comments to assist the Secretary of Labor, the United States Trade Representative, and the Secretary of State in preparing reports regarding labor rights in the five member countries of the Central American Economic Integrations System (Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua) and describing the extent to which they have in effect laws governing exploitative child labor. The Trade Act of 2002 requires reports on these issues and others when the President intends to use trade promotion authority procedures in connection with legislation approving and implementing a trade agreement. On October 1, 2002, in accordance with section 2104(a)(1) of the Trade Act of 2002, the United States Trade Representative (USTR) notified the Congress of the President's intent to enter into trade negotiations with these five countries of Central America. The interagency Trade Policy Staff Committee (TPSC) invited the public to provide written comments and/or oral testimony at a public hearing conducted on November 19, 2002 to assist USTR in formulating positions and proposals with respect to all aspects of the negotiations (67 FR 63187) (Oct. 10, 2002). The first round of the U.S.—Central America FTA negotiations took place January 27–31 in Costa Rica, a the second round took place February 24–28 in Cincinnati, Ohio, and a third round took place March 31—April 4 in El Salvador. A fourth round is scheduled for May 12th in Guatemala, and negotiations are expected to be completed by the end of 2003. Any agreement resulting from these negotiations will be subject to trade promotion authority procedures. The President assigned the functions of preparing reports regarding labor rights and the existence of laws governing exploitative child labor to the Secretary of Labor, in consultation with the Secretary of State and the United States Trade Representative. The Secretary of Labor further assigned these functions to the Secretary of State and the United States Trade Representative.

DATES: Public comments should be received no later than 5 p.m. June 5, 2003.

ADDRESSES: Persons submitting comments are strongly advised to make such submissions by electronic mail to the following address: *FRFTACAFTA@dol.gov*. Submissions by facsimile may be sent to: Betsy White at the Office of International Economic Affairs, Bureau of International Labor Affairs (202) 693–4851.

FOR FURTHER INFORMATION CONTACT: For procedural questions regarding the submissions, please contact Betsy White, Office of International Economic Affairs, Bureau of International Labor Affairs, at (202) 693–4919, facsimile (202) 693–4851. These are not toll-free numbers. Substantive questions concerning the labor rights report and/or the report on Central America's laws governing exploitative child labor should be addressed to Jorge Perez-Lopez, Office of International Economic Affairs, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone (202) 693–4883.

SUPPLEMENTARY INFORMATION:

I. Background

The Trade Act of 2002 (Pub. L. 107–210) (the Trade Act) sets forth special procedures (Trade Promotion Authority) for approval and implementation of Agreements subject to meeting conditions and requirements in the Act. Division B of the Trade Act, entitled the Bipartisan Trade Promotion Authority Act of 2002. The Trade Act includes negotiating objectives and a listing of priorities for the President to promote in order to ''address and maintain United States competitiveness in the global economy'' in pursuing future trade agreements. 19 U.S.C. 3802(a)-(c). The President delegated several of the functions in section 3802(c) to the Secretary of Labor. (E.O. 13277). These include the functions set forth in section 2102(c)(8), which requires that the President ''in connection with any trade negotiations entered into under this Act, submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a meaningful labor rights report of the country, or countries, with respect to which the President is negotiating'' and the function in section 2102(c)(9), which requires that the President ''with respect to any trade agreement which the President seeks to implement under trade authorities procedures, submit to the Congress a report describing the extent to which the country or countries that are parties to the agreement have in effect laws governing exploitative child labor.'' The notification letters to the Congress regarding the President's intent to enter into trade negotiations with Central America can be found on the USTR Web site at *http://www.ustr.gov/releases/2002/2002–10–01-centralamerica-house.PDF* and *http://www.ustr.gov/releases/2002/2002–10–01-centralamerica-senate.PDF*.

II. Information Sought

Interested parties are invited to submit written information as specified below to be taken into account in drafting the required reports. Materials submitted should be confined to the specific topics of the reports. In particular, agencies are seeking written submissions on the following topics:

1. Labor laws, including laws governing exploitative child labor, of the five Central American countries that are participating in the negotiations and each country's implementation and enforcement of its labor laws and regulations;
2. The situation in these five countries of Central America with respect to core labor standards;
3. Steps taken by the five countries to comply with International Labor Organization Convention 182 on the worst forms of child labor; and
4. The nature and extent, if any, of exploitative child labor in each of these five countries of Central America.

Section 2113(6) of the Trade Act defines ''core labor standards'' as:

(A) The right of association;

(B) The right to organize and bargain collectively;

(C) A prohibition on the use of any form of forced or compulsory labor;

(D) A minimum age for the employment of children; and

(E) Acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

III. Requirements for Submissions

This document is a request for facts or opinions submitted in response to a general solicitation of comments from the public. To ensure prompt and full consideration of submissions, we strongly recommend that interested persons submit comments by electronic mail to the following e-mail address: *FRFTACAFTA@dol.gov*. Persons making submissions by e-mail should use the following subject line: ''Central America: Labor Rights and Child Labor Reports.'' Documents should be submitted in WordPerfect, MSWord, or text (.TXT) format. Supporting documentation submitted as spreadsheets is acceptable in Quattro Pro or Excel format. Persons who make submissions by e-mail should not provide separate cover letters; information that might appear in a cover letter should be included in the submission itself. Similarly, to the extent possible, any attachments to the submission should be included in the

same file as the submission itself, and not as separate files. Written comments will be placed in a file open to public inspection at the Department of Labor, Room S–5317, 200 Constitution Avenue, NW., Washington DC and in the USTR Reading Room in Room 3 of the annex of the Office of the USTR, 1724 F Street, NW., Washington, DC 20508. An appointment to review the file at the Department of Labor may be made by contacting Betsy White at (202) 693–4919. An appointment to review the file at USTR may be made by calling (202) 395–6186. The USTR Reading Room is generally open to the public from 10 a.m.–12 noon and 1–4 p.m. Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Signed at Washington, DC, this 16th of April 2003.

Thomas B. Moorhead,

Deputy Under Secretary for International Affairs.

[FR Doc. 03–9797 Filed 4–18–03; 8:45 am]

BILLING CODE 4510–28–P

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Meeting

Time and Date: 10 a.m., Thursday, April 24, 2003.

Place: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

Status: Open.

Matters to be Considered:

1. Quarterly Insurance Fund Report.
2. Request from a Federal Credit Union to Expand its Community Charter.
3. Requests from two (2) Federal Credit Unions to Convert to Community Charters.
4. Final Rule: Part 741 of NCUA's Rules and Regulations, Overseas Branching by Federally Insured Credit Unions.
5. Final Rule: Part 740 of NCUA's Rules and Regulations, Advertising.
6. Final Rule: Section 701.19 of NCUA's Rules and Regulations, Retirement Benefits for Federal Credit Union Employees.

For Further Information Contact: Becky Baker, Secretary of the Board, Telephone: 703–518–6304.

Becky Baker,

Secretary of the Board.

[FR Doc. 03–9927 Filed 4–17–03; 12:49 pm]

BILLING CODE 7535–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend and Revise a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and request for comments.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request renewal of this collection. In accordance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by June 20, 2003 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

FOR ADDITIONAL INFORMATION OR COMMENTS: Contact Teresa R. Pierce, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7555; or send email to *tpierce@nsf.gov.* You also may obtain a copy of the data collection instrument and instructions from Ms. Pierce.

SUPPLEMENTARY INFORMATION:

Title of Collection: Academic Research and Development Survey Expenditures at Universities and Colleges, FY 2003 through FY 2006; OMB Control Number 3145–0100.

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 on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Renewal Project: Separately budgeted current fund expenditures on research and development in the sciences and engineering performed by universities and colleges and federally funded research and development centers—A web survey, the Survey of Scientific and Engineering Expenditures at Universities and Colleges, originated in fiscal year (FY) 1954 and has been conducted annually since FY 1972. The survey is the academic expenditure component of the NSF statistical program that seeks to provide a ''central clearinghouse for the collection, interpretation, and analysis of data on the availability of, and the current and projected need for, scientific and technical resources in the United States, and to provide a source of information for policy formulation by other agencies of the Federal government,'' as mandated in the National Science Foundation Act of 1950.

Use of the Information: The proposed project will continue the current survey cycle for three to five years. The Academic R&D Survey will be a census of the full population of an expected 646 institutions (610 universities or colleges plus 36 federally funded research and development centers—FFRDCs) for academic years 2003 through FY 2006. These institutions account for over 95 percent of the Nation's academic R&D funds. The survey has provided continuity of statistics on R&D expenditures by source of funds and by science & engineering (S&E) field, with separate data requested on current fund expenditures for research equipment by S&E field. Further breakdowns are collected on passed through funds to subrecipients and received as a subrecipient. Additional measures on current fund expenditures for separately budgeted research and developoment by field of science and engineering are requested as being part of the core survey on select Federal Government agency sources. Data are published in NSF's annual publication series Academic Science and Engineering R&D Expenditures and are available electronically on the World Wide Web.

The survey is a fully automated web data collection effort and is handled primarily by the administrators at the Institutional Research Offices. To minimize burden, institutions are provided with an abundance of guidance and help menus on the web, in addition to printing and responding via paper copy if necessary. Each record is pre-loaded with the institutions 2 previous year's data and a complete program for editing and trend checking. Response to this voluntary survey in FY 2001 was 95.4 percent. Burden estimates are as follows: [1]

* * * * *

[1] Average burden hours for institutions responding to burden item.

Total number of institutions	Doctorate-granting burden hours	Masters-granting burden hours	Bachelors degree burden hours	FFRDC's burden hours
FY 1999 480	20.8	13.0	7.5	9.4
FY 2000 700	21.0	12.0	10.5	9.2
FY 2001 625	30.2	11.9	9.0	12.1

Dated: April 15, 2003.

Teresa R. Pierce,

Reports Clearance Officer.

[FR Doc. 03–9682 Filed 4–18–03; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on May 8–9, 2003, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Monday, November 20, 2002 (67 FR 70094).

Thursday, May 8, 2003

8:30 a.m.–8:35 a.m.: Opening Statement by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Vessel Head Penetration Cracking and Degradation (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and industry regarding industry responses to NRC Bulletin 2002–02, ''Reactor Pressure Vessel Head Degradation and Reactor Coolant Pressure Boundary Integrity,'' Electric Power Research Institute's Materials Reliability Program's proposed inspection program, wastage research, and related matters.

10:45 a.m.–12:15 p.m.: Proposed Revisions to Regulatory Guide 1.178 and Standard Review Plan Section 3.9.8 for Risk-Informed Inservice Inspection of Piping (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed revisions to Regulatory Guide 1.178, ''An Approach for Plant-Specific, Risk-Informed Decisionmaking: Inservice Inspection of Piping,'' and to Standard Review Plan Section 3.9.8, ''Standard Review Plan for the Review of Risk-Informed Inservice Inspection Applications.''

1:15 p.m.–2:15 p.m.: Operating Experience Program Effectiveness (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding ongoing efforts to improve the agency's Reactor Operating Experience Program.

2:15 p.m.–3:15 p.m.: Draft Commission Paper on ACRS Self Assessment (Open)—The Committee will discuss a draft Commission Paper regarding ACRS Self Assessment.

3:30 p.m.–7 p.m.: Proposed ACRS Reports (Open/Closed)—The Committee will discuss proposed ACRS reports on matters considered during this meeting, as well as a proposed ACRS report on Advancement of PRA Technology to Improve Risk-Informed Decisionmaking. In addition, the Committee will consider a proposed ACRS report on Safeguards and Security (Closed). *The discussion of the Safeguards and Security report will be held in Room T–8E8.*

Friday, May 9, 2003

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–9 a.m.: Subcommittee Report on the Revised Mixed Oxide (MOX) Fuel Fabrication Facility Application (Open)—Report by the Chairman of the ACRS Subcommittee on Reactor Fuels regarding the revised construction authorization application for the MOX Fuel Fabrication Facility and the staff's proposed Safety Evaluation Report.

9 a.m.–9:15 a.m.: Subcommittee Report on the Integrated Industry Initiating Event Performance Indicator (Open)—Report by the Chairman of the Reliability and PRA Subcommittee regarding the integrated industry initiating event performance indicator which is part of the Industry Trends Program.

9:15 a.m.–10:15 a.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

10:15 a.m.–10:30 a.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

10:45 a.m.–6:30 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

6:30 p.m.–7 p.m.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2002 (67 FR 63460). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Associate Director for Technical Support named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Associate Director prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Associate Director if such

rescheduling would result in major inconvenience.

In accordance with subsection 10(d) Pub. L. 92–463, I have determined that it is necessary to close a portion of this meeting noted above to discuss and protect information classified as national security information pursuant to 5 U.S.C. 552b(c)(1).

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Dr. Sher Bahadur, Associate Director for Technical Support ((301) 415–0138), between 7:30 a.m. and 4:15 p.m., ET.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/* (ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician ((301) 415–8066), between 7:30 a.m. and 3:45 p.m., ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: April 15, 2003.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 03–9718 Filed 4–18–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards

Meeting of the Subcommittee on Reliability and Probabilistic Risk Assessment; Notice of Meeting

The ACRS Subcommittee on Reliability and Probabilistic Risk Assessment will hold a meeting on May 7, 2003, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, May 7, 2003—2 p.m. Until the Conclusion of Business

The purpose of this meeting is to review the integrated industry initiating event indicator as a part of the Industry Trends Program. The Subcommittee will hear presentations by and hold discussions with representatives of the NRC staff, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Ms. Maggalean W. Weston (telephone (301) 415–3151) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 8 a.m. and 5:30 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes to the agenda.

Dated: April 15, 2003.

Howard J. Larson,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 03–9719 Filed 4–18–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards, Subcommittee Meeting on Planning and Procedures; Notice of Meeting

The ACRS Subcommittee on Planning and Procedures will hold a meeting on May 7, 2003, Room T–2B1, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c)(2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACRS, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

Wednesday, May 7, 2003—11 a.m.–1 p.m.

The Subcommittee will discuss proposed ACRS activities and related matters. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Sam Duraiswamy (telephone: (301) 415–7364) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: April 15, 2003.

Howard J. Larson,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 03–9720 Filed 4–18–03; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 15g–3, SEC File No. 270–346, OMB Control No. 3235–0392

Rule 15g–4, SEC File No. 270–347, OMB Control No. 3235–0393

Rule 15g–5, SEC File No. 270–348, OMB Control No. 3235–0394

Rules 17Ad–6 and 17Ad–7, SEC File No. 270–151, OMB Control No. 3235–0291

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'') has submitted to the Office of Management and Budget requests for extension of the previously

approved collections of information discussed below.

• Rule 15g–3 Broker or Dealer Disclosure of Quotations and other Information Relating to the Penny Stock Market.

Rule 15g–3 under the Securities Exchange Act of 1934 (the ''Exchange Act'') requires that brokers and dealers disclose to customers current quotation prices or similar market information in connection with transactions in penny stocks. It is estimated that approximately 270 respondents incur an average burden of 100 hours annually to comply with the rule.

• Rule 15g–4 Disclosure of compensation to brokers or dealers.

Rule 15g–4 under the Exchange Act requires brokers and dealers effecting transactions in penny stocks for or with customers to disclose the amount of compensation received by the broker-dealer in connection with the transaction. It is estimated that approximately 270 respondents incur an average of 100 hours annually to comply with the rule.

• Rule 15g–5 Disclosure of compensation of associated persons in connection with penny stock transactions.

Rule 15g–5 under the Exchange Act requires brokers and dealers to disclose to customers the amount of compensation to be received by their sales agents in connection with penny stock transactions. This rule was adopted by the Commission to increase the level of disclosure to investors concerning penny stocks generally and specific penny stock transactions. It is estimated that approximately 270 respondents incur an average burden of 100 hours annually to comply with the rule. The total annual reporting and recordkeeping burden will be 27,000 burden hours.

• Rules 17Ad–6 and 17Ad–7 Recordkeeping requirements for transfer agents

Rule 17Ad–6 under the Exchange Act requires every registered transfer agent to make and keep current records about a variety of information, such as: (1) Specific operational data regarding the time taken to perform transfer agent activities (to ensure compliance with the minimum performance standards in Rule 17Ad–2 (17 CFR 240.17Ad–2)); (2) written inquiries and requests by shareholders and broker-dealers and response time thereto; (3) resolutions, contracts or other supporting documents concerning the appointment or termination of the transfer agent; (4) stop orders or notices of adverse claims to the securities; and (5) all canceled registered securities certificates.

Rule 17Ad–7 under the Exchange Act requires each registered transfer agent to retain the records specified in Rule 17Ad–6 in an easily accessible place for a period of six months to six years, depending on the type of record or document. Rule 17Ad–7 also specifies the manner in which records may be maintained using electronic, microfilm, and microfiche storage methods.

These recordkeeping requirements ensure that all registered transfer agents are maintaining the records necessary to monitor and keep control over their own performance and for the Commission to adequately examine registered transfer agents on an historical basis for compliance with applicable rules.

We estimate that approximately 1,000 registered transfer agents will spend a total of 500,000 hours per year complying with Rules 17Ad–6 and 17Ad–7. Based on average cost per hour of $50, the total cost of compliance with Rule 17Ad–6 is $25,000,000.

The retention period for the recordkeeping requirements under Rule 17Ad–6 is six months to one year. In addition, such records must be retained for a total of two to six years or for one year after termination of the transfer agency, depending on the particular record or document. The recordkeeping requirements under Rules 17Ad–6 and 17Ad–7 are mandatory to assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. This rule does not involve the collection of confidential information.

Please note that 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 control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 14, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–9674 Filed 4–18–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 204–3, SEC File No. 270–42, OMB Control No. 3235–0047

Rule 203–2 and Form ADV–W, SEC File No. 270–40, OMB Control No. 3235–0313

Rule 203–3 and Form ADV–H, SEC File No. 270–481, OMB Control No. 3235–0538

Rule 0–2 and Form ADV–NR, SEC File No. 270–241, OMB Control No. 3235–0240

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'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

The title for the collection of information is ''Rule 204–3 under the Investment Advisers Act of 1940.'' Rule 204–3, the ''brochure rule,'' currently requires an investment adviser to deliver, or offer, to prospective clients a disclosure statement containing specified information as to the business practices and background of the adviser. The brochure assists the client in determining whether to retain, or continue employing, the adviser. Rule 204–3 also currently requires that an investment adviser deliver, or offer, its brochure on an annual basis to existing clients in order to provide them with current information about the adviser. On April 5, 2000, the Commission proposed amendments to rule 204–3 in conjunction with amendments to Form ADV. The proposed amendments to rule 204–3 would require SEC-registered advisers to deliver their brochure and appropriate brochure supplements at the start of the advisory relationship, and to offer to deliver the brochure and brochure supplements annually. The proposed rule amendments also would require that advisers deliver updates to the brochure and brochure supplements to clients whenever information in the brochure becomes materially inaccurate. The updates could take the form of a reprinted brochure or a ''sticker'' containing the updated information.

The respondents to this information collection would be each investment

adviser registered with the Commission. The Commission has estimated that compliance with proposed rule 204–3 would impose a burden of approximately 694 hours annually based on an average adviser having 670 clients. Based on this figure, the Commission estimates a total annual burden of 5,412,643 hours for this collection of information.

Rule 204–3 does not require recordkeeping or record retention. The collection of information requirements under the rule are mandatory. The information collected pursuant to the rule are not filed with the Commission, but rather take the form of disclosures to clients. Accordingly, these filings are not kept confidential. 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 control number.

The title for the collection of information is ''Rule 203–2 and Form ADV–W under the Investment Advisers Act of 1940.'' Rule 203–2 under the Investment Advisers Act of 1940 establishes procedures for an investment adviser to withdraw its registration with the Commission. Rule 203–2 requires every person withdrawing from investment adviser registration with the Commission to file Form ADV–W electronically on the Investment Adviser Registration Depository (''IARD''). The purpose of the information collection is to notify the Commission and the public when an investment adviser withdraws its pending or approved SEC registration. Typically, an investment adviser files a Form ADV–W when it ceases doing business or when it is ineligible to remain registered with the Commission.

The respondents to the collection of information are all investment advisers that are registered with the Commission or have applications pending for registration. The Commission has estimated that compliance with the requirement to complete Form ADV–W imposes a total burden of approximately 0.75 hours (45 minutes) for an adviser filing for full withdrawal and approximately 0.25 hours (15 minutes) for an adviser filing for partial withdrawal. Based on historical filings, the Commission estimates that there are approximately 500 respondents annually filing for full withdrawal and approximately 500 respondents annually filing for partial withdrawal. Based on these estimates, the total estimated annual burden would be 500 hours ((500 respondents × .75 hours) + (500 respondents × .25 hours)).

Rule 203–2 and Form ADV–W do not require recordkeeping or records retention. The collection of information requirements under the rule and form are mandatory. The information collected pursuant to the rule and Form ADV–W are filings with the Commission. These filings are not kept confidential.

The title for the collection of information is ''Rule 203–3 and Form ADV–H under the Investment Advisers Act of 1940.'' Rule 203–3 under the Investment Advisers Act of 1940 establishes procedures for an investment adviser to obtain a hardship exemption from the electronic filing requirements of the Investment Advisers Act. Rule 203–3 requires every person requesting a hardship exemption to file Form ADV–H with the Commission. The purpose of this collection of information is to permit advisers to obtain a hardship exemption, on a permanent or temporary basis, to not complete an electronic filing. The temporary hardship exemption permits advisers to make late filings due to unforeseen computer or software problems, while the continuing hardship exemption permits advisers to submit all required electronic filings on hard copy for data entry by the operator of the IARD.

The respondents to the collection of information are all investment advisers that are registered with the Commission. The Commission has estimated that compliance with the requirement to complete Form ADV–H imposes a total burden of approximately 1 hour for an adviser. Based on our experience with hardship filings, we estimate that we will receive 10 Form ADV–H filings annually. Based on the 60 minute per respondent estimate, the Commission estimates a total annual burden of 10 hours for this collection of information.

Rule 203–3 and Form ADV–H do not require recordkeeping or records retention. The collection of information requirements under the rule and form are mandatory. The information collected pursuant to the rule and Form ADV–H are filings with the Commission. These filings are not kept confidential.

The title for the collection of information is ''Rule 0–2 and Form ADV–NR under the Investment Advisers Act of 1940.'' Rule 0–2 and Form ADV–NR facilitate service of process to non-resident investment advisers and their non-resident general partners or non-resident managing agents. The Form requires these persons to designate the Commission as agent for service of process. The purpose of this collection of information is to enable the commencement of legal and/or regulatory actions against investment advisers that are doing business in the United States, but are not residents.

The respondents to this information collection would be each non-resident general partner or managing agent of an SEC-registered adviser. The Commission has estimated that compliance with the requirement to complete Form ADV–NR imposes a total burden of approximately 1 hour for an adviser. Based on our experience with these filings, we estimate that we will receive 15 Form ADV–NR filings annually. Based on the 60 minute per respondent estimate, the Commission estimates a total annual burden of 15 hours for this collection of information.

Rule 0–2 and Form ADV–NR do not require recordkeeping or records retention. The collection of information requirements under the rule and form are mandatory. The information collected pursuant to the rule and Form ADV–NR are filings with the Commission. These filings are not kept confidential.

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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 14, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–9700 Filed 4–18–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form U–3A–2, SEC File No. 270–83, OMB Control No. 3235–0161

Form U–13–60, SEC File No. 270–79, OMB Control No. 3235–0153

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'') has submitted to the Office of Management and Budget (''OMB'') requests for extension to the previously approved collections of information discussed below.

Part 259.402 (17 CFR 259.402) under the Public Utility Holding Company Act of 1935, as amended (''Act''), 15 U.S.C. 79, *et seq.*, requires that public utility holding companies that are exempt from regulation under the Act file an annual financial report on Form U–3A–2.

Rule 2 under the Act, which implements section 3 of the Act, requires the information collection prescribed by Form U–3A–2. The Commission estimates that the total annual reporting and recordkeeping burden of collections for Form U–3A–2 is 227.5 hours (91 responses × 2.5 hours = 227.5 hours).

Part 259.313 (17 CFR 259.313) under the Act generally mandates standardized accounting and record keeping for mutual and subsidiary service companies of registered holding companies and the filing of annual financial reports on Form U–13–60.

Rules 93 and 94 under the Act, which implement Section 13 of the Act, requires the information collection prescribed by Form U–13–60. The Commission estimates that the total annual reporting and recordkeeping burden of collections for Form U–13–60 is 877.5 hours (65 responses × 13.5 hours = 877.5 hours).

The estimate of average burden hours are made for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or representative survey or study of the costs of complying with the requirements of Commission rules and forms.

Please direct general comments regarding the above information to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 14, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–9701 Filed 4–18–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form N–23C–1, SEC File No. 270–230, OMB Control No. 3235–0230

Rule 19a–1, SEC File No. 270–240, OMB Control No. 3235–0216

Rule 22d–1, SEC File No. 270–275, OMB Control No. 3235–0310

Rule 30b2–1, SEC File No. 270–213, OMB Control No. 3235–0220

Form ADV–E, SEC File No. 270–318, OMB Control No. 3235–0361

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'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Section 23(c) of the Investment Company Act of 1940 (15 U.S.C. 80a–23(c)) (''Investment Company Act'' or ''Act'') prohibits a registered closed-end investment company (''closed-end fund'' or ''fund'') from purchasing any security it issues except on a securities exchange, pursuant to tender offers, or under such other circumstances as the Commission may permit by rules or orders designed to ensure that purchases are made in a manner that does not unfairly discriminate against any holders of the securities to be purchased. Rule 23c–1 (17 CFR 270.23c–1) under the Act permits a closed-end fund that meets certain requirements to repurchase its securities other than on an exchange or pursuant to a tender.

A registered closed-end fund that relies on Rule 23c–1 may purchase its securities for cash if, among other conditions set forth in the rule, certain conditions are met: (i) Payment of the purchase price is accompanied or preceded by a written confirmation of the purchase; (ii) the purchase is made at a price not above the market value, if any, or the asset value of the security, whichever is lower, at the time of the purchase; and (iii) if the security is stock, the issuer has, within the preceding six months, informed stockholders of its intention to purchase stock of the class by letter or report addressed to all the stockholders of the class.

In addition, the issuer must file with the Commission, on or before the tenth day of the month following the date in which the purchase occurs, two copies of Form N–23C–1. The form requires the issuer to report all purchases it has made during the month, together with a copy of any written solicitation to purchase securities under Rule 23c–1 sent or given during the month by or on behalf of the issuer to ten or more persons.

The purpose of Rule 23c–1 is to protect shareholders of closed-end funds from fraud in connection with the repurchase by funds of their own securities. The purpose of the rule's requirement that the fund file Form N–23C–1 with the Commission is to allow the Commission to monitor funds' repurchase of securities as well as any written solicitation used by the fund to effect those repurchases, and to make that information available to the public. Investors may seek this information when determining whether to invest in certain funds.

The requirement to file Form N–23C–1 applies to a closed-end fund only when the fund has repurchased its securities. If the information provided in the form were collected less frequently than a month after repurchases occur, the Commission and investing public would lack current information about closed-end funds that repurchase their own securities.

Commission staff estimates that each year approximately 30 closed-end funds use the repurchase procedures under Rule 23c–1, and that these funds file a total of 180 forms each year. The number of forms filed by each fund ranges from 1 to 12 depending on the number of months in which the fund repurchases its securities under Rule 23c–1. Commission staff estimates that each response requires 1 burden hour to prepare and file Form N–23C–1 with a copy of any written solicitation to purchase securities under the rule (if necessary).[1] The total annual burden of the rule's paperwork requirements is estimated to be 180 hours.

Section 19(a) (15 U.S.C. 80a–19(a)) of the Investment Company Act makes it unlawful for any registered investment company to pay any dividend or similar distribution from any source other than the company's net income, unless the payment is accompanied by a written statement to the company's shareholders which adequately discloses the sources of the payment.

[1] The burden hour estimates are based upon consultation with lawyers and accountants familiar with the practices of fund boards and the staff of investment advisers.

Section 19(a) authorizes the Commission to prescribe the form of the statement by rule.

Rule 19a–1 (17 CFR 270.19a–1) under the Act is entitled: ''Written Statement to Accompany Dividend Payments by Management Companies.'' Rule 19a–1 sets forth specific requirements for the information that must be included in statements made under section 19(a) by registered investment companies. The rule requires that the statements indicate what portions of the payment are made from net income, net profits and paid-in capital.[2] When any part of the payment is made from net profits, the rule requires that the statement disclose certain other information relating to the appreciation or depreciation of portfolio securities. If an estimated portion of the payment is subsequently determined to be significantly inaccurate, a correction must be made on a statement made under section 19(a) or in the first report to shareholders following the discovery of the inaccuracy. The purpose of Rule 19a–1 is to afford fund shareholders adequate disclosure of the sources from which dividend payments are made.

The Commission staff estimates that approximately 8,400 portfolios of management companies may be subject to Rule 19a–1 each year.[3] The total average annual burden for Rule 19a–1 per portfolio is estimated to be approximately 30 minutes.[4] The total annual burden for all portfolios therefore is estimated to be approximately 4,200 burden hours.

Compliance with the collection of information required by Rule 19a–1 is mandatory for management companies that make written statements to shareholders pursuant to section 19(a) of the Act. Responses will not be kept confidential.

Rule 22d–1 (17 CFR 270.22d–1) under the Investment Company Act provides registered investment companies that issue redeemable securities an exemption from section 22(d) of the Investment Company Act to the extent necessary to permit scheduled variations in or elimination of the sales load on fund securities for particular classes of investors or transactions, provided certain conditions are met. The rule imposes an annual burden per series of a fund of approximately 15 minutes, so that the total annual burden for the approximately 6,100 series of funds that might rely on the rule is estimated to be 1,525 hours. The collection of information required by Rule 22d–1 is mandatory. Responses will not be kept confidential.

Rule 30b2–1 under the Investment Company Act (17 CFR 270.30b2–1) requires the filing of four copies of every periodic or interim report transmitted by or on behalf of any registered investment company to its stockholders.[5] This requirement ensures that the Commission has information in its files to perform its regulatory functions and to apprise investors of the operational and financial condition of a registered investment companies.[6]

It is estimated that approximately 3,700 registered management investment companies are required to send reports to stockholders at least twice annually. In addition, under recently proposed amendments to Rule 30b2–1, if adopted, each registered investment company would be required to file with the Commission new form N–CSR, certifying the financial statements. The annual burden of filing the reports is included in the burden estimate for Form N–CSR.

The collection of information under Rule 30b2–1 is mandatory. The information provided by Rule 30b2–1 is not kept confidential.

Form ADV–E (17 CFR 279.8) is the cover sheet for accountant examination certificates filed pursuant to Rule 206(4)–2 under the Investment Advisers Act by investment advisers retaining custody of client securities or funds. The annual burden is approximately three minutes per respondent.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act. The estimate is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

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 control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503; and (ii) Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: April 14, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–9702 Filed 4–18–03; 8:45 am]

BILLING CODE 8010–01–P

[2] Rule 19a–1 requires, among other things, that every written statement made under Section 19 of the Act by or on behalf of a management company clearly indicate what portion of the payment per share is made from the following sources: net income for the current or preceding fiscal year, or accumulated undistributed net income, or both, not including in either case profits or losses from the sale of securities or other properties; accumulated undistributed net profits from the sale of securities or other properties; and paid-in surplus or other capital source.

[3] The Commission staff estimates that there are approximately 3,800 registered investment companies that are ''management companies'' as defined by the Act, and each may have one or more separate portfolios that report dividends to shareholders. The Commission's records indicate that those 3,800 management companies have approximately 8,200 portfolios that report paying dividends, and so may be subject to Rule 19a–1.

[4] According to respondents, no more than approximately 15 minutes is needed to make the determinations required by the rule and include the required information in the shareholders' dividend statements. The Commission staff estimates that, on average, each portfolio mails two notices per year to meet the requirements of the rule, for an average total annual burden of approximately 30 minutes.

[5] Most filings are made via the Commission's electronic filing system; therefore, paper filings under Rule 30b2–1 occur only in exceptional circumstances. Electronic filing eliminates the need for multiple copies of filings.

[6] Annual and periodic reports to the Commission become part of its public files and, therefore, are available for use by prospective investors and stockholders.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47659; File No. SR–CBOE–2002–36]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Regarding Closing-Only Transactions

April 10, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on June 27, 2002, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. On April 2, 2003, the CBOE filed Amendment No. 1 that entirely replaced the original rule filing.[3] The Commission is publishing this notice to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Andrew Spiwak, Director Legal Division and Chief Enforcement Attorney, CBOE, to John Roeser, Special Counsel, Division of Market Regulation, Commission, dated April 1, 2003.

solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules to address certain issues regarding closing-only transactions. Below is the text of the proposed rule change. Additions are *italicized*.

* * * * *

Chapter V Securities Dealt in Designation of Securities

* * * * *

Withdrawal of Approval of Underlying Securities

Rule 5.4. Whenever the Exchange determines that an underlying security previously approved for Exchange option transactions does not meet the then current requirements for continuance of such approval or for any other reason should no longer be approved, the Exchange will not open for trading any additional series of options of the class covering that underlying security and therefore *two floor officials, in consultation with a designated senior executive officer of the Exchange,* may prohibit any opening purchase transactions in series of options of that class previously opened *(except that (i) opening transactions by market-makers executed to accommodate closing transactions of other market participants and (ii) opening transactions by CBOE member organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with CBOE Rule 6.74(b) or (d) may be permitted)*, to the extent it deems such action necessary or appropriate; provided, however, that where exceptional circumstances have caused an underlying security not to comply with the Exchange's current approval maintenance requirements, regarding number of publicly held shares or publicly held principal amount, number of shareholders, trading volume or market price*, the Exchange,* in the interest of maintaining a fair and orderly market or for the protection of investors, may determine to continue to open additional series of option contracts of the class covering that underlying security. When all option contracts in respect of any underlying security that is no longer approved have expired, *the Exchange* may make application to the Securities and Exchange Commission to strike from trading and listing all such option contracts.

* * * Interpretations and Policies:

* * * * *

.05 If prior to the delisting of a class of option contracts covering an underlying security which has been found not to meet the Exchange's requirements for continued approval, the Exchange shall determine that the underlying security again meets the Exchange's requirements for such underlying security, the Exchange*,* may open for trading additional series of options of that class, and *two floor officials, in consultation with a designated senior executive officer of the Exchange,* may lift any restriction on opening purchase transactions imposed under this Rule.

* * * * *

.08 Securities consisting of shares or other securities (''Units'') that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities that were initially approved for options trading pursuant to Interpretation and Policy .06 under Rule 5.3 shall be deemed not to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Units, in accordance with the terms of paragraph (f) of Interpretation and Policy .01 of this Rule 5.4. In addition, *two floor officials, in consultation with a designated senior executive officer of the Exchange,* shall consider the suspension of opening transactions in any series of options of the class covering Units in any of the following circumstances:

(a) In the case of options covering Units approved pursuant to clause (D)(x) under Interpretation and policy .06 of Rule 5.3, in accordance with the terms of paragraphs (a), (b), (c) and (d) of Interpretation and Policy .01 of this Rule 5.4;

(b) In the case of options covering Units approved pursuant to clause (D)(y) under Interpretation and Policy .06 of Rule 5.3, following the initial twelve-month period beginning upon the commencement of trading in the Units on a national securities exchange or as NMS securities through the facilities of a national securities association there are fewer than 50 record and/or beneficial holders of such Units for 30 or more consecutive trading days; or

(c) The value of the index or portfolio of securities on which the Units are based is no longer calculated or available.

.09 Absent exceptional circumstances, securities initially approved for options trading pursuant to Interpretation and Policy .07 under Rule 5.3 (such securities are defined and referred to in that Interpretation and Policy as ''Trust Issued Receipts'') shall not be deemed to meet the Exchange's requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such Trust Issued Receipts, whenever the Trust Issued Receipts are delisted and trading in the Receipts is suspended on a national securities exchange, or the Trust Issued Receipts are no longer traded as national market securities through the facilities of a national securities association. In addition, *two floor officials, in consultation with a designated senior executive officer of the Exchange,* shall consider the suspension of opening transactions in any series of options of the class covering Trust Issued Receipts in any of the following circumstances:

(1) In accordance with the terms of paragraphs (a) through (g) of Interpretation and Policy .01 of this Rule 5.4 in the case of options covering Trust Issued Receipts when such options were approved pursuant to paragraph (a)(i) of Interpretation and Policy .07 under Rule 5.3;

(2) The Trust has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Trust Issued Receipts for 30 or more consecutive trading days;

(3) The trust has fewer than 50,000 receipts issued and outstanding;

(4) The market value of all receipts issued and outstanding is less than $1,000,000; or

(5) Such other event shall occur or condition exist that in the opinion of the Exchange makes further dealing in such options on the Exchange inadvisable.

* * * * *

Chapter VIII Market-Makers, Trading Crowds and Modified Trading Systems

* * * * *

Section B: Trading Crowds

* * * * *

Firm Disseminated Market Quotes

Rule 8.51

* * * * *

Interpretations and Policies:

.11 If, pursuant to paragraph (e) of this Rule, non-firm mode applies to an options class because the security underlying such options class has been delisted and is subsequently traded on

the OTC Bulletin Board, Pink Sheets or similar trading system, and opening transactions have been prohibited pursuant to CBOE Rule 5.4, the Exchange shall monitor the activity or condition of the market and paragraph (e)(4) of this Rule shall not apply.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change would amend CBOE Rule 5.4 and add an interpretation to CBOE Rule 8.51 to address certain issues dealing with options that have closing-only restrictions. The proposed change to CBOE Rule 5.4 would give two floor officials, in consultation with a designated senior executive officer of *the Exchange,* the authority to prohibit opening purchase transactions for equity options whenever the Exchange has determined that an underlying security previously approved for Exchange option transactions does not meet the current requirements for continuance of such approval. For example, the proposed rule change would be applicable when a security underlying an option has been delisted and is subsequently traded on the OTC Bulletin Board, Pink Sheets or similar trading system. In the aforementioned situation, the rule would also permit certain types of opening transactions by members to accommodate the closing transactions of other market participants. Specifically, in these situations, the rule would permit: (i) Opening transactions by market-makers executed to accommodate closing transactions of other market participants and (ii) opening transactions by CBOE member organizations to facilitate the closing transactions of public customers executed as crosses pursuant to and in accordance with CBOE Rule 6.74(b) or (d) (Crossing Orders). Similar changes are proposed to Interpretations and Policies .05 (to lift restrictions on opening transactions if the underlying security, which previously did not meet the Exchange's listing standards, again meets the Exchange's listing standards), .08 (for securities consisting of shares or other securities that represent interests in registered investment companies organized as open-end management investment companies, unit investment trusts or similar entities) and .09 (for Trust Issued Receipts). Currently, the Exchange has the authority to prohibit an opening purchase transaction in an option, but must seek approval through the Office of the Chairman. This proposed rule change to grant this authority to two floor officials and a senior executive officer of the Exchange would make CBOE Rule 5.4 consistent with other CBOE rules involving trading halts and similar types of actions for index options and provides for greater efficiency when invoking a restriction or prohibition in a delisted or restricted option class.[4]

The proposed change to Interpretation and Policy .11 under CBOE Rule 8.51 deals with the implementation of non-firm mode for options that are restricted to closing-only transactions. Currently, CBOE Rule 8.51(e)(4) requires that when a series or class of option is in non-firm mode for purposes of the firm quote rule, the DPM and floor officials must review and reaffirm the condition of the market every 30 minutes. The proposed change to the interpretation and policies of CBOE Rule 8.51 sets forth that in situations in which opening transactions have been prohibited in an option where the underlying security has been delisted and is subsequently traded on the OTC Bulletin Board, Pink Sheets or a similar trading system, and the Exchange has invoked that only closing transactions may occur, as set forth above, the Exchange would monitor the activity or condition of the market. However, the DPM and floor officials would not be required to review and reaffirm the market conditions causing the non-firm mode designation every 30 minutes. The Exchange believes it is necessary to invoke non-firm mode pursuant to Exchange Rule 8.51(e) when a security is no longer listed on a national securities exchange or traded through a national securities association and reported as a national market system security, due to the fact that the Exchange is unable to directly receive an electronic quotation feed from the OTC Bulletin Board or Pink Sheets. The Exchange believes that in these specific situations, the Exchange is incapable of collecting quotations in the underlying security that accurately reflect the true state of the market. For these options, the market conditions that caused the non-firm mode designation will not change. Therefore, the Exchange believes that the need to review market conditions every 30 minutes is not necessary.[5] In addition, the Exchange would be required to notify investors of the non-firm mode through the dissemination of a message code via OPRA. Furthermore, the Exchange would issue a Regulatory Circular to its members reflecting trading restrictions as described above.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[6] in general and furthers the objectives of Section 6(b)(5)[7] in particular in that it promotes just and equitable principles of trade and protects investors and the public interest. Further, the Exchange believes that the proposed rule change to CBOE Rule 5.4 promotes just and equitable principles of trade by granting floor officials authority along with a senior executive officer of the Exchange, which is consistent with authority granted to floor officials and a senior executive officer of the Exchange in other Exchange rules dealing with similar situations, such as trading halts and those applicable to index options.

The proposed change to the Interpretation and Policy .11 of CBOE Rule 8.51 is designed to protect investors and the public interest. Since the market conditions for options that are subject to closing-only restrictions are not likely to change, the need to review and reaffirm the market conditions every 30 minutes is not necessary in a closing transaction only restriction situation.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CBOE believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[4] *See* Exchange Rules 6.3 Trading Halts and Rule 24.7 Trading Halts, Suspensions, or Primary Market Closure.

[5] The Exchange represents, and the proposed rule would require, that the Exchange would monitor the market conditions, as is required by Rule 11Ac1–1 under the Act. 17 CFR 240.11Ac1–1.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–2002–36 and should be submitted by May 12, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–9699 Filed 4–18–03; 8:45 am]

BILLING CODE 8010–01–P

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47675; File No. SR–NQLX–2003–03]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto by Nasdaq Liffe Markets, LLC To Amend Its Initial Listing Standards and Maintenance Standards for Single Stock Futures

April 14, 2003.

Pursuant to section 19(b)(7) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–7 under the Act,[2] notice is hereby given that on January 27, 2003, Nasdaq Liffe Markets, LLC (''NQLX'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule changes described in items I, II, and III below, which Items have been prepared by the NQLX. On April 4, 2003, NQLX filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proprosed rule changes, as amended, from interested persons.

On January 27, 2003, NQLX submitted the proposed rule change to the Commodities Futures Trading Commission (''CFTC'') for approval. On April 3, 2003, NQLX submitted the Amendment No. 1 to proposed rule change to the CFTC for approval. Under section 19(b)(7)(B) of the Act,[4] the proposed rule change may take effect upon approval by the CFTC.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

NQLX proposed to amend both its initial and maintenance listing standards (NQLX Rules 902 and 903) as they relate to the pricing criteria for securities that underlie security futures products offered by NQLX. Currently NQLX Rule 902(b)(8) requires that he market price per share of any underlying security must be at least $7.50 for the majority of trading days during the three calendar months before listing of the security futures contact, as measured by the lowest closing price reported in any market in which the underlying security traded on each of the subject days.

In addition to meeting the current listing requirements of NQLX Rule 902(b), NQLX proposes adding a new rule provision, NQLX Rule 902(b)(8)(i), that would allow the listing of a security futures product if the underlying securities are ''covered securities,'' as defined under Section 18(b)(1)(A) of the Securities Act of 1933 (''1933 Act'') (''covered securities''),[5] and have reported at least a $3.00 per share closing price on their primary for the five previous consecutive trading days before the initial listing of the product. For initial listings of security future products with underlying securities that are not covered securities, NQLX Rule 90218(b)(8)(ii) will continue to require those underlying securities to trade at $7.50 or above for the majority of trading days during the three calendar months before listing of the security futures contract.

NQLX also proposes to add NQLX Rule 902(b)(8)(iii) to allow the initial listing of a security futures contract if the underlying security (1) meets the requirements under NQLX Rule 903(c); (2) underlies a security futures contract that already trades on at least one other registered national securities exchange; and (3) underlies a security futures contract that has had average daily trading volume of at least 5,000 contracts during the three calendar months immediately before the date of listing. NQLX represents that this proposed change is consistent with similar initial listing standards in place at several options exchanges.[6]

As to maintenance listing standards, in addition to meeting the current listing requirements of NQLX rule 903(c), NQLX proposes to amend NQLX Rule 903(c)(6) to allow the listing of a new delivery months for a security futures product if the underlying securities have reported at least a $3.00 per share closing price on their primary market on the trading day immediately before the listings of the new delivery month.[7] NQLX represents that this

[1] 15 U.S.C. 78s(b)(7).

[2] 17 CFR 240.19b–7.

[3] On April 4, 2003, NQLX filed Form 19b–7, which completely replaces the initial filing in its entirety. Telephone conversation between Kathleen Hamm, Senior Vice President, Regulation and Compliance, NQLX, and Christopher Solgan, Attorney, Division of Market Regulation (''Division''), Commission, on April 8, 2003.

[4] 15 U.S.C. 78s(b)(7)(B).

[5] Section 18(b0(11)(A) of the 1933 Act provides that, ''[a] security is a covered security if such security is—listed, or authorized for listing, on the New York Stock Exchange or the American Stock Exchange, or listed, or authorized for listing, on the National Market system of the Nasdaq Stock Market (or any successor to such entities). * * *'' 15 U.S.C. 77r(b)(1)(A). The term ''covered security'' would not include those securities defined under section 18(b)(1)(B) of the 1933 Act. 15 U.S.C. 77r(b)(1)(B).

[6] *See, e.g.,* Commentary .01(4) to American Stock Exchange LLC (''Amex'') Rule 916; International Securities Exchange, Inc. (''ISE'') Rule 502(b)(5)(ii); Pacific Exchange, Inc. (''PCX'') Rule 3.6(a)(4).

[7] Currently, NQLX does not anticipate adding additional series intra-day. However, if NQLX ever

Continued

change is consistent with the maintenance listing standards of the Chicago Board Options Exchange, Inc. (''CBOE'').[8]

The text of the proposed rule change appears below. New text is in *italics.* Deleted text is in brackets.[9]

Rule 902 Initial Listing Standards: Physically-Settled Security Futures Contracts.

(a) (1)–(2) No change.

(b) Initial Listing Standards-Underlying Securities are Single Securities: To initially list a physically-settled Security Futures Contract with an underlying single security, the single security must:

(1)–(7) No change.

(8) *(i) have a market price per security of at least $3.00 (calculated by the closing price reported on the primary market on which the underlying security trades) for the previous five consecutive trading days before listing if the underlying security is a ''covered security'' as defined by section 18(b)(1)(A) of the Securities Act of 1933 (''Covered Security''); or*

(ii) have a market price per security of at least $7.50 (calculated by the lowest closing price reported in any market on which the underlying security traded) for the majority of trading days during the three calendar months before listing *if the underlying security is not a ''covered security'' as defined by section 18(b)(1)(A) of the Securities Act of 1933 (''Uncovered Security''); or*

(iii) (A) meet the requirement of Rule 903(c), and

(B) underlie a securities futures contract that (i) trades on at least one other registered national securities exchange and (ii) has had an average daily trading volume of at least 5,000 contracts during the three calendar months immediately before the date of listing; and

(9) No change.

(c)–(d) No change.

(e) Initial Listing Standards-Underlying Securities are Restructure Securities: For a Restructure Security the requirements of Rule 902(b) apply, except that:

(1)–(4) No change.

(5) Restructure Securities Issued in Public Offering or Rights Distribution: To determine whether Rule 902(b)(8) is deemed satisfied for a Restructure Security that is distributed pursuant to a public offering or a rights distribution, NQLX may look back at the market price history of the Original Security if:

(i) the Look-Back Test of Rule 902(e)(3) is satisfied; and

(ii) the Restructure Security

(A) trades ''regular way'' on an exchange or automatic quotation system for at least five trading days immediately before the date that NQLX selects the Restructure Security as an underlying security for a Security Futures Contract, and

(B) closes trading on each of those five previous trading days, and opens trading on the day of selection, at least at *(i) $3.00 if the Restructure Security is a Covered Security (as defined by Rule 902(b)(8)(i)) or (ii) $7.50 if the Restructure Security is an Uncovered Security (as defined by Rule 902(b)(8)(ii)).*

Rule 9031 Maintenance Listing Standards: Physically-Settled Security Futures Contracts:

(a) (1)–(5) No change.

(b) No change.

(c) Maintenance Standards—Underlying Securities are Single Securities Other than Shares of Exchange-Traded Funds, Shares of Registered Closed-End Management Investment Companies, or Trust-Issued Receipts: When the underlying of a physically-settled Security Futures Contract is a single security other than shares of exchange-traded funds, shares of registered closed-end management investment companies, or trust-issued receipts, to list a new delivery month of the Security Futures Contract, the single security must:

(1)–(5) No change.

(6)](i)] *have a market price per security of at least $3.00 (calculated by the closing price reported on the primary market on which the underlying security trades) on the trading day immediately before listing a new delivery month* [if the underlying security is a Covered Security (as defined by Rule 902(b)(8)(i)), or] *and*

[(ii) have a market price per security of at least $5.00 for an Uncovered Security (as defined by Rule 902(b)(8)(ii)) on a majority of the trading days during the past six calendar months (measured by the highest closing price reported for the underlying security in any market trading the underlying); provided, however, that NQLX may waive this requirement and open for trading a new delivery month of the Security Futures Contract, if:

(*A*) the open interest by Customers (on a two-sided basis) equals or exceeds 4,000 contract for all delivery months;

(*B*) the aggregate market value of the underlying security equals or exceeds $50 million;

(*C*) the average daily trading volume in the underlying security (in all markets that trade the underlying) has been at least 109,000 shares or receipts evidencing the underlying security in each of the prior 12 months; and

(*D*) the market price per share of or receipts evidencing the underlying security:

(*i*) has closed at $3.00 or above on a majority of trading days during the past six calendar months, as measured by the highest closing price for the underlying security reported in any market that trades the underlying security, and

(*ii*) is at least $3.00 on the day NQLX lists the new delivery month for trading;]

(7) No change.

(d)–(f) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

NQLX has prepared statements concerning the purpose of, and basis for, the proposed rule change, burdens on competition, and comments received from members, participants, and others. The text of these statements may be examined at the places specified in Item IV below. These statements are set forth in Sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NQLX proposes to adopt revisions to its current listing standards, which it believes are no less restrictive than comparable listing standards for options traded on a national securities exchange or national securities association,[10] because the options listing and maintenance standards of the Amex, CBOE, ISE, and PCX contain similar provisions.[11] NQLX believes that adoption of the current proposal would provide investors with security futures

determines it appropriate to add a new series intra-day, NQLX will submit a proposed rule change to the Commission and CFTC to use the price per share of the last reported trade on the primary market on which the underlying security trades at the time NQLX determines to add the new series.

[8] *See* Interpretations and Policies .01 and .02 to CBOE Rule 5.4. *See also* Securities Exchange Act Release No. 44964 (October 19, 2001), 66 FR 54599 (October 29, 2001).

[9] NQLX authorized technical corrections to the proposed rule text during a telephone conversion between Kathleen Hamm, Senior Vice President, Regulation and Compliance, NQLX, and Christopher Solgan, Attorney, Division, Commission, on April 8, 2003.

[10] 15 U.S.C. 78f(h)(3)(C).

[11] *See* Securities Exchange Act Release No. 34–47190 (January 15, 2003), 68 FR 3072 (January 22, 2003) (approving SR–CBOE–2002–62). *See, e.g.,* ISE Rule 502(b)(5)(ii); PCX Rule 3.6(a)(4); Interpretations and Policies .01 and .02 to CBOE Rule 5.4; and Commentary .01(4) to Amex Rule 916.

products that are useful and in demand as tools to manage the risks of their investment portfolios.

NQLX believes that its proposed rule changes comply with the requirements under section 6(h)(3) of the Act[12] and the criteria under section 2(a)(1)(D)(i) of the CEA,[13] as modified by joint orders of the Commission and the CFTC, and that its listing standards are no less restrictive than comparable listing standards for options traded on a national securities exchange or national securities association.[14]

2. Statutory Basis

NQLX files this proposed rule change pursuant to section 19(b)(7) of the Act.[15] NQLX believes that this proposed rule change is consistent with the requirements of the Commodity Futures Modernization Act of 2000,[16] including the requirement that trading in a listed security futures is not readily susceptible to manipulation of its price nor to causing or being used to manipulate the price of the underlying security, options on the security, or options on a group or index including the security.[17] NQLX further believes that its proposed rule change complies with the requirements under section 6(h)(3) of the Act[18] and the criteria under Section 2(a)(1)(D)(i) of the CEA,[19] as modified by joint orders of the Commission and the CFTC. In addition, NQLX believes that its proposed rule change is consistent with the provisions of section 6 of the Act.[20] in general, and section 6(b)(5) of the Act,[21] in particular, which requires, among other things, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NQLX does not believe that the proposed rule changes will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[12] 15 U.S.C. 78f(h)(3).

[13] 7 U.S.C. 2(a)(1)(D)(i).

[14] 15 U.S.C. 78f(h)(3)(C).

[15] 15 U.S.C. 78s(b)(7).

[16] P.L. 106–554, 114 Stat. 2763 (2000).

[17] 15 U.S.C. 78f(h)(3)(H).

[18] 15 U.S.C. 78f(h)(3).

[19] 7 U.S.C. 2(a)(1)(D)(i).

[20] 15 U.S.C. 78f.

[21] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement of Comments on the Proposed Rule Change Received From Members, Participants, or Others

NQLX neither solicited nor received written comment on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective on January 27, 2003, except that the changes made in Amendment No. 1 have become effective on April 4, 2003. Within 60 days of the date of effectiveness of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of section 19(b)(1) of the Act.[22]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, conflicts with the Act. Persons making written submissions should file nine copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically to the following e-mail address: *rule-comments@sec.gov.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of these filings also will be available for inspection and copying at the principal office of NQLX. All submissions should refer to File No. SR–NQLX–2003–03 and should be submitted by May 12, 2003.

[22] 15 U.S.C. 78s(b)(1).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[23]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–9675 Filed 4–18–03; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47679; File No. SR–NASD–2003–48]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Modify the Display Charge Associated With the Use of the Nasdaq Workstation II Service by Persons That Are Not NASD Members

April 15, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on March 21, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to modify the display charge paid by persons that are not NASD members for use of the Nasdaq Workstation II (''NWII'') Service.[3] Nasdaq will implement the proposed rule change as soon as practicable following approval by the Commission.

The text of the proposed rule change appears below. New text is in italics. Deleted text is in brackets.

* * * * *

7000. Charges for Services and Equipment

7010. System Services

(a)–(e) No change.

[23] 17 CFR 200.30–3(a)(75).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On March 21, 2003, Nasdaq also submitted a proposed rule change to modify this charge for NASD members. *See* Securities Exchange Act Release No. 47637 (April 7, 2003), 68 FR 17849 (April 11, 2003) (File No. SR–NASD–2003–47).

(f) Nasdaq Workstation™ Service

(1) The following charges shall apply to the receipt of Level 2 or Level 3 Nasdaq Service via equipment and communications linkages prescribed for the Nasdaq Workstation II Service:

Service Charge	[$1,875/month per service delivery platform (''SDP'') from December 1, 2000 through February 28, 2001] $2,035/month per *service delivery platform (*''SDP''*)* [beginning March 1, 2001].
Display Charge	$525/month per [presentation device (''PD'')] *logon for the first 150 logons $200/month for each additional logon.*
Additional Circuit/SDP Charge	[$3,075 per month from December 1, 2000 through February 28, 2001, and] $3,235/month [beginning March 1, 2001]*.
Maintenance	$55/[SDP or] *presentation device (*''PD''*)* logon *or SDP*/month.

A subscriber that accesses Nasdaq Workstation II Service via an application programming interface (''API'') shall be assessed the Service Charge for each of the subscriber's SDPs and shall be assessed the Display Charge for each of the subscriber's [API linkages] *logons,* including *logons of* an NWII substitute or quote-update facility. API subscribers also shall be subject to the Additional Circuit /SDP Charge.

(2) No change.

• A subscriber shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its SDP(s) by placing eight [PDs and/or API servers] *logons* on an SDP and obtains an additional SDP(s); in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP(s) (*i.e.*, the difference between the number of SDPs a subscriber has and the number of SDPs the subscriber would need to support its *logons* [PDs and/or API servers], assuming an eight-to-one ratio). A subscriber also shall be subject to the Additional Circuit/SDP Charge when the subscriber has not maximized capacity on its T1 circuits by placing eighteen SDPs on a T1 circuit; in such case, the subscriber shall be charged the Additional Circuit/SDP Charge (in lieu of the service charge) for each ''underutilized'' SDP slot on the existing T1 circuit(s). Regardless of the SDP allocation across T1 circuits, a subscriber will not be subject to the Additional Circuit/SDP Charge if the subscriber does not exceed the minimum number of T1 circuits needed to support its SDP, assuming an eighteen-to-one ratio.

(g)–(s) No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. Nasdaq has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NWII service allows market participants to access the Nasdaq Stock Market and other Nasdaq facilities through Nasdaq's Enterprise Wide Network II (''EWN II''). To use the NWII service, each subscriber location has at least one service delivery platform (''SDP'') that connects to the EWN II by a dedicated T1 circuit pair. The subscriber then connects the workstations used by its employees to the SDP. Thus, the SDP functions as the gateway from the subscriber's workstations to the EWN II.

Different subscribers use different types of workstations. A subscriber may use either an ''NWII presentation device'' (a workstation and associated software provided by Nasdaq) or its own workstation and software (often referred to as an ''application programming interface'' device, or an ''NWII substitute''), and many subscribers use both options. Each workstation, however, is associated with a particular ''logon,''[4] the code that a user enters to identify himself or herself as an authorized NWII user and thereby gain access to the NWII service. Nasdaq currently assesses a ''display charge'' of $525 per month for each logon.[5]

Nasdaq represents that, as part of an ongoing effort to reduce costs incurred by Nasdaq's market participants to use its systems and services, Nasdaq is proposing to modify the display charge to reflect the economies of scale realized when providing subscribers with a large number of logons. Specifically, Nasdaq asserts that if a subscriber has more than 150 logons, the per logon average cost to provide NWII service to that subscriber will decrease over a substantial range of additional logons. Moreover, Nasdaq represents that the average costs associated with subscriber support also decrease as the number of logons increases. Accordingly, Nasdaq believes that it is reasonable to offer a discount on additional logons to subscribers with more than 150 logons, to reflect the lower average costs associated with providing this volume of logons.[6] A subscriber will pay the current display charge of $525 per month per logon for its first 150 logons, and a reduced charge of $200 per month for each additional logon.[7] Nasdaq believes that this reduction will also make it more economical for subscribers to install systems with redundancy, which will enable them to remain fully operational even if they experience equipment failures or an unexpected increase in demand.

In determining the number of logons used by a particular subscriber, Nasdaq will permit a particular corporate entity to aggregate its logons with those used by its wholly owned subsidiaries, parent corporations of which it is a wholly owned subsidiary, or affiliated corporations that are wholly owned by a common parent. A subscriber that wishes to aggregate its logons with those of its affiliates in this manner will be

[4] Nasdaq represents that the term ''logon'' as used throughout the proposed rule change refers to a logon ID (or logon identifier) and not a logon event. Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and Frank N. Genco, Attorney, Division of Market Regulation (''Division''), Commission, on March 28, 2003.

[5] Nasdaq notes that NASD rule 7010(f)(1), as in effect prior to the amendments made by this proposed rule change, uses a variety of terms to refer to the concept reflected in the term ''logon.'' As a part of this proposed rule change, Nasdaq is clarifying the rule by using the term ''logon'' throughout, and is also removing language describing fees in effect prior to March 1, 2001.

[6] Telephone conversation between John M. Yetter, Assistant General Counsel, Nasdaq, and Hong-Anh Tran, Special Counsel, Division, Commission, on April 1, 2003.

[7] Nasdaq represents that a change to its Tools Plus SDP pricing is not warranted at this time. *See also* Securities Exchange Act Release No. 46973 (December 9, 2002), 67 FR 77305 (December 17, 2002) (File No. SR–NASD–2002–164).

required to provide supporting information about its corporate structure to Nasdaq.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[8] in general, and section 15A(b)(5) of the Act,[9] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the NASD consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filings will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–48 and should be submitted by May 12, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–9698 Filed 4–18–03; 8:45 am]

BILLING CODE 8010–01–P

[8] 15 U.S.C. 78*o*–3.

[9] 15 U.S.C. 78*o*–3(b)(5).

[10] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster No. P007, Amdt. No. 1]

State of Tennessee

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency, effective April 14, 2003, the above numbered declaration is hereby amended to include Hardin and Lauderdale Counties in the State of Tennessee as disaster areas due to damages caused by severe storms and flooding occurring from February 14, 2003 and continuing through February 26, 2003.

All other information remains the same, *i.e.*, the deadline for filing applications for physical damage is May 19, 2003.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: April 15, 2003.

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. 03–9798 Filed 4–18–03; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Region II Buffalo District Advisory Council; Public Meeting

The U.S. Small Business Administration Region II Advisory Council located in the geographical area of Buffalo, New York, will hold a public meeting at 10 a.m. eastern time on Wednesday, April 23, 2003 at the Transit Valley Country Club, 8920 Transit Road, East Amherst, New York to discuss such matters that may be presented by members, and staff of the U.S. Small Business Administration, or others present. Anyone wishing to make an oral presentation to the Board must contact Franklin J. Sciortino, District Director, in writing by letter or by fax no later than Monday, April, 21, 2003, in order to be put on the agenda. Franklin J. Sciortino, District Director, U.S. Small Business Administration, 1311 Federal Building, 111 West Huron Street, Buffalo, NY 14202. Telephone (716) 551–4301 or Fax (716) 551–4418.

Candace H. Stoltz,

Director Advisory Councils.

[FR Doc. 03–9799 Filed 4–18–03; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4338]

30-Day Notice of Proposed Information Collection: Form DS–2038, Application for Certificate of International Educational Character; OMB Control Number 1405–0122

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Reinstatement of previously approved collection whose approval has expired.

Originating Office: Bureau of Educational and Cultural Affairs (ECA–IIP/EX/PR).

Title of Information Collection: Application for Certificate of International Educational Character.

Frequency: Occasionally.

Form Number: DS–2038.

Respondents: Members of the public who seek a certificate of international educational character for audiovisual material.

Estimated Number of Respondents: 6.

Average Hours Per Response: 25 minutes.

Total Estimated Burden: 25 hours.

Public comments are being solicited to permit the agency to:

• Evaluate whether the proposed collection of information is necessary

for the proper performance of the functions of the agency, including whether the information will have practical utility.

• Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Leslie M. Nolan, U.S. Department of State, Bureau of Educational and Cultural Affairs, 301 4th Street, SW., Room 534, Washington, DC 20547. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, who may be reached on 202–395–3897.

Dated: March 31, 2003.

James D. Whitten,

Executive Director, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 03–9777 Filed 4–18–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2002–14223]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FMCSA announces its decision to exempt 21 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). The exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: April 21, 2003.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, you may contact Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987, 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:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Background

On March 4, 2003, the FMCSA published a Notice of its receipt of applications from 21 individuals, and requested comments from the public (68 FR 10301). The 21 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. They are: Gordon L. Apple, Stanley E. Bernard, John D. Bolding, Jr., Ronald B. Brown, Michael P. Curtin, Albion C. Doe, James M. Eads, Richard L. Elyard, Michael R. Forschino, John C. Gadomski, Richard H. Hammann, Carl M. Hill, David A. Hiller, Billy L. Johnson, Christopher J. Kane, Jack E. Kettner, Wallace F. Mahan, Sr., James R. Petre, William E. Reveal, Robert P. Sanderson, and Janusz Tyrpien.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption 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 statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the FMCSA has evaluated the 21 applications on their merits and made a determination to grant the exemptions to all of them. The comment period closed on April 3, 2003. One comment was received, and its contents were carefully considered by the FMCSA in reaching the final decision to grant the exemptions.

Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

Since 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (*See* Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket, FHWA–98–4334.) The panel's conclusion supported the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 21 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal and macular scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but eight of the applicants were either born with their vision impairments or have had them since childhood. The eight individuals who sustained their vision conditions as adults have had them for periods ranging from 5 to 30 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, *i.e.* the FMCSRs, however, require more.

While possessing a valid CDL or non-CDL, these 21 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision

disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 44 years. In the past 3 years, one of the drivers has had a conviction for two traffic violations—speeding and ''failure to obey traffic control device/sign.'' None of the drivers was involved in an accident.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the March 4, 2003 notice (68 FR 10301). Since there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants is supported by the information published at 68 FR 10301.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA–98–3637)

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrates that the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (*See* 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (*See* Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (*See* Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 21 applicants receiving an exemption, we note that the applicants have had no accidents and two traffic violations in the last 3 years. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to the 21 applicants listed in the March 4, 2003 notice (68 FR 10301).

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 21 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined 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, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received one comment in this proceeding. The comment was considered and is discussed below.

Advocates for Highway and Auto Safety (Advocates) expresses continued opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which the FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)); and finally (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

After considering the comments to the docket and based upon its evaluation of the 21 exemption applications, the FMCSA exempts Gordon L. Apple, Stanley E. Bernard, John D. Bolding, Jr., Ronald B. Brown, Michael P. Curtin, Albion C. Doe, James M. Eads, Richard L. Elyard, Michael R. Forschino, John C. Gadomski, Richard H. Hammann, Carl M. Hill, David A. Hiller, Billy L. Johnson, Christopher J. Kane, Jack E. Kettner, Wallace F. Mahan, Sr., James R. Petre, William E. Reveal, Robert P. Sanderson, and Janusz Tyrpien from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined 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, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked 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. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: April 15, 2003.

Pamela M. Pelcovits,

Acting Associate Administrator, Policy, Plans and Regulation.

[FR Doc. 03–9730 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2003–14504]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of applications for exemption from the vision standard; request for comments.

SUMMARY: This notice publishes the FMCSA's receipt of applications from 29 individuals for an exemption from the vision requirement in the Federal Motor Carrier Safety Regulations. If granted, the exemptions will enable these individuals to qualify as drivers of commercial motor vehicles (CMVs) in interstate commerce without meeting the vision standard prescribed in 49 CFR 391.41(b)(10).

DATES: Comments must be received on or before May 21, 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 number that appears in the heading of this document. 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 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption 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 statute also allows the agency to renew exemptions at the end of the 2-year period. The 29 individuals listed in this notice have recently requested an exemption from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce. Accordingly, the agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety.

Qualifications of Applicants

1. Michael C. Boyne

Mr. Boyne, 52, has retinopathy of prematurity in his right eye. His best-corrected visual acuity in the right eye is 20/400 and in the left, 20/20. His ophthalmologist examined him in 2002 and stated, ''Based upon these findings, this individual has sufficient vision to perform driving tasks required to operate a commercial vehicle.'' Mr. Boyne submitted that he has driven tractor-trailer combinations for 9 years, accumulating 1.0 million miles. He

holds a Class A commercial driver's license (CDL) from Florida. His driving record for the last 3 years shows one accident and no convictions for moving violations in a CMV. According to the police report, another driver moved into Mr. Boyne's lane, striking his vehicle. The report indicated that the other driver contributed to the accident by ''failure to keep in proper lane.'' Mr. Boyne was not cited.

2. Clifford D. Carpenter

Mr. Carpenter, 59, lost his right eye due to an injury 17 years ago. His best-corrected visual acuity in the left eye is 20/20. Following an examination in 2002, his optometrist certified, ''It is my medical opinion that Mr. Carpenter meets the conditions for consideration for the vision exemption program, and has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Carpenter reported that he has driven straight trucks for 41 years, accumulating 717,000 miles, and tractor-trailer combinations for 39 years, accumulating 390,000 miles. He holds a Class A CDL from Missouri. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

3. Bobby R. Carter, Sr.

Mr. Carter, 55, has had optic nerve atrophy in his left eye since 1998. His best-corrected visual acuity in the right eye is 20/20 and in the left, light perception. Following an examination in 2002, his optometrist certified, ''His vision is sufficient for operating a commercial vehicle: distance acuity is clear, peripheral vision is full and adequate for him to see all the mirrors.'' Mr. Carter reported that he has driven tractor-trailer combinations for 12 years, accumulating 900,000 miles. He holds a Class CA CDL from Michigan. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

4. Darryl D. Cassatt

Mr. Cassatt, 46, has a congenital cataract in his right eye. His best-corrected visual acuity is 20/400 in the right eye and 20/20 in the left. Following an examination in 2002, his optometrist certified, ''In my expert medical opinion, I feel Darryl Cassatt has sufficient vision to operate a commercial vehicle.'' Mr. Cassatt submitted that he has driven straight trucks for 3 years, accumulating 234,000 miles, and tractor-trailer combinations for 4 years, accumulating 468,000 miles. He holds a Class AM CDL from Iowa. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

5. Timothy H. Dubois

Mr. Dubois, 41, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/300. Following an examination in 2002, his optometrist certified, ''In my medical opinion, I believe that Tim Dubois has sufficient vision required to operate a commercial vehicle.'' Mr. Dubois reported that he has driven straight trucks for 11 years, accumulating 440,000 miles, and tractor-trailer combinations for 11 years, accumulating 55,000 miles. He holds a Class A CDL from Minnesota. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

6. Robert E. Ezell, Jr.

Mr. Ezell, 43, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/90 in the left. Following an examination in 2002, his optometrist certified, ''Mr. Ezell has had this condition (amblyopia) since he was a child, and it is my medical opinion that he has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Ezell reported that he has driven straight trucks for 15 years, accumulating 45,000 miles, and tractor-trailer combinations for 6 years, accumulating 750,000 miles. He holds a driver's license from the State of Washington. His driving record shows one accident and no convictions for moving violations in a CMV. According to the police report, Mr. Ezell's vehicle struck an unoccupied vehicle that rolled out of a parking lot into his travel lane. The owner was cited for ''no proof of insurance.'' Mr. Ezell was not cited.

7. Orasio Garcia

Mr. Garcia, 46, has amblyopia in his left eye. The visual acuity in his right eye is 20/20 and in the left, hand motions. Following an examination in 2002, his ophthalmologist certified, ''I am not familiar with the criteria of vision requirements of a commercial vehicle driver, but he has been doing this line of work all his life with stable ophthalmologic condition, and I feel reasonably certain that Mr. Garcia should be able to continue commercial operation as he has done in the past.'' Mr. Garcia submitted that he has driven straight trucks for 5 years, accumulating 20,000 miles, and tractor-trailer combinations for 3 years, accumulating 300,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows one accident and no convictions for moving violations in a CMV. According to the police report, another driver failed to yield at a stop sign, striking Mr. Garcia's vehicle. The other driver was cited for ''failure to yield right of way at stop sign.'' Mr. Garcia was not cited.

8. Reginal Gillis

Mr. Gillis, 39, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/100 and in the left, 20/20. His ophthalmologist examined him in 2002 and stated, ''There is no evidence with your current eye condition that will prevent you from operating any type of commercial motor vehicle.'' Mr. Gillis submitted that he has driven straight trucks for 15 years, accumulating 7,000 miles. He holds a Class B CDL from Florida. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

9. Raymond D. Gromley

Mr. Gromley, 58, lost the vision in his left eye due to trauma in 1992. His best-corrected visual acuity in the right eye is 20/20. Following an examination in 2002, his ophthalmologist stated, ''In my opinion, Raymond's vision in his remaining eye is satisfactory for him to perform driving tasks required to operate a commercial vehicle.'' Mr. Gromley submitted that he has driven straight trucks for 42 years, accumulating 420,000 miles, and tractor-trailer combinations for 16 years, accumulating 560,000 miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—speeding—in a CMV. He exceeded the speed limit by 11 mph.

10. Dennis K. Harris

Mr. Harris, 41, lost his right eye due to an accident in 1982. The visual acuity in his left eye is 20/15. An ophthalmologist examined him in 2002 and stated, ''He appears well-adapted to being one-eyed. He has a totally normal left eye with excellent vision without any correction, and he should be able to drive using this eye. Specifically, he should be able to drive a commercial vehicle for the tasks required of him by his employer.'' Mr. Harris submitted that he has driven straight trucks for 17 years, accumulating 527,000 miles. He holds a Class CM driver's license from Georgia. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

11. Donald E. Howell

Mr. Howell, 61, has count fingers vision in his left eye due to toxoplasmosis chorioretinitis in 1975. His best-corrected visual acuity in the right eye is 20/20. Following an examination in 2002, his ophthalmologist stated, ''In my opinion, you have more than enough vision to perform all driving tasks required of a commercial driver in a large commercial vehicle.'' Mr. Howell reported that he has driven straight trucks for 40 years, accumulating 80,000 miles, and tractor-trailer combinations for 38 years, accumulating 3.0 million miles. He holds a Class A CDL from Pennsylvania. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

12. Tommy T. Hudson

Mr. Hudson, 49, has a retinal scar in his right eye due to histoplasmosis. The visual acuity in his right eye is light perception and in the left, 20/20. His optometrist examined him in 2002 and certified, ''In my opinion, I believe the patient has sufficient vision in both eyes to operate a commercial vehicle.'' Mr. Hudson reported that he has driven tractor-trailer combinations for 30 years, accumulating 2.3 million miles. He holds a Class AM CDL from Virginia. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

13. William D. Johnson

Mr. Johnson, 53, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/400. An optometrist examined him in 2002 and stated, ''In my professional opinion, Mr. Johnson has sufficient vision to perform driving tasks that he has performed for the past 35 years. Anyone that has an amblyopic eye since birth has learned to compensate for their deficiency, and is very capable of continuing driving until he starts to have a decrease in visual acuity in his right eye.'' Mr. Johnson submitted that he has driven tractor-trailer combinations for 35 years, accumulating 1.9 million miles. He holds a Class A CDL from Oklahoma. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

14. Raymond T. Jones, Jr.

Mr. Jones, 46, has a macular scar in his right eye due to an injury at the age of 13. His best-corrected visual acuity is 20/70 in the right eye and 20/20 in the left. Following an examination in 2002, his ophthalmologist certified, ''Mr. Jones has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Jones reported that he has driven tractor-trailer combinations for 21 years, accumulating 1.9 million miles. He holds a Class A CDL from North Carolina. His driving record shows one accident and no convictions for moving violations in a CMV. According to the police report, Mr. Jones collided with a vehicle that swerved into his lane after being sideswiped by a hit and run driver. The report indicated that the driver of the hit and run vehicle was not known, and none of the drivers was charged.

15. Edward J. Kasper

Mr. Kasper, 66, has reduced vision in his left eye due to an accident 60 years ago. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/200. An ophthalmologist examined him in 2002 and certified, ''The patient has more than sufficient vision to perform the tasks required to operate a commercial vehicle.'' Mr. Kasper reported that he has driven buses for 5 years, accumulating 225,000 miles. He holds a Class B CDL from Delaware. His driving record for the last 3 years shows no accidents and one conviction for a moving violation—speeding—in a CMV. He exceeded the speed limit by 10 mph.

16. Jimme D. Kline

Mr. Kline, 44, has amblyopia in his left eye. The visual acuity in his right eye is 20/20 and in the left, 20/400. An ophthalmologist examined him in 2002 and stated, ''Jimme Kline's uncorrected vision is sufficient for driving commercial vehicles.'' Mr. Kline submitted that he has driven straight trucks for 25 years, accumulating 625,000 miles, and tractor-trailer combinations for 4 years, accumulating 400,000 miles. He holds a Class A CDL from Texas. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

17. Phillip L. Mangen

Mr. Mangen, 37, has amblyopia in his left eye. His best-corrected visual acuity is 20/15 in the right eye and 20/60 in the left. An optometrist examined him in 2002 and stated, ''I feel Phillip Mangen has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Mangen submitted that he has driven tractor-trailer combinations for 15 years, accumulating 1.5 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

18. Paul V. Mattingly

Mr. Mattingly, 47, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/200 and in the left, 20/15. His optometrist examined him in 2002 and stated, ''Mr. Mattingly has sufficient visual performance to operate a commercial vehicle.'' Mr. Mattingly reported that he has driven straight trucks for 27 years, accumulating 891,000 miles. He holds a Class B driver's license from Illinois. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

19. Steven M. Montalbo

Mr. Montalbo, 45, lost his left eye due to injury 36 years ago. His best-corrected visual acuity in the right eye is 20/15. Following an examination in 2002, his optometrist certified, ''Based upon these findings, we feel that the patient has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Montalbo submitted that he has driven straight trucks for 7 years, accumulating 698,000 miles, and tractor-trailer combinations for 25 years, accumulating 624,000 miles. He holds a Class A CDL from California. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

20. Bernard E. Roche

Mr. Roche, 65, has had scarring of the retina in his right eye due to injury since 1995. His corrected visual acuity is 20/20 in the right eye and 20/100 in the left. Following an examination in 2002, his optometrist commented, ''In my opinion, Mr. Roche has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Roche submitted that he has driven straight trucks for 42 years, accumulating 840,000 miles. He holds a Class A CDL from Virginia. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

21. Charles J. Rowsey

Mr. Rowsey, 39, lost his right eye due to injury 18 years ago. The visual acuity in his left eye is 20/15. Following an examination in 2002, his optometrist certified, ''In my professional opinion, Charles Rowsey has sufficient vision to perform the driving tasks required to operate a commercial vehicle.'' Mr. Rowsey reported that he has driven tractor-trailer combinations for 16 years, accumulating 1.0 million miles. He holds a Class A CDL from North Carolina. His driving record shows no accidents or convictions for moving

violations in a CMV during the last 3 years.

22. Vincent Rubino

Mr. Rubino, 33, has amblyopia in his right eye. His best-corrected visual acuity is counting fingers in the right eye and 20/20 in the left. His ophthalmologist examined him in 2002 and stated, ''Based on my exam and Mr. Rubino's past history, I feel he has sufficient vision to perform the tasks required to operate a commercial vehicle.'' Mr. Rubino reported that he has driven straight trucks for 4 years, accumulating 200,000 miles, and tractor-trailer combinations for 10 years, accumulating 550,000 miles. He holds a Class A CDL from New Jersey. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

23. Randy G. Spilman

Mr. Spilman, 47, has amblyopia in his right eye. His best-corrected visual acuity is 20/50 in the right eye and 20/20 in the left. His optometrist examined him in 2002 and stated, ''It is my medical opinion that Mr. Spilman's vision is sufficient to perform the driving tasks required to operate a commercial vehicle.'' Mr. Spilman submitted that he has driven tractor-trailer combinations for 16 years, accumulating 1.9 million miles. He holds a Class A CDL from Ohio. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

24. Wyatt W. Thayer, Jr.

Mr. Thayer, 63, has had open angle glaucoma and iritis in his right eye since 1997. His best-corrected visual acuity is 20/40–2 in the right eye and 20/20 in the left. His optometrist examined him in 2002 and stated, ''In my medical opinion, Mr. Thayer has more than sufficient vision to perform the driving tasks of a commercial vehicle.'' Mr. Thayer reported that he has driven tractor-trailer combinations for 16 years, accumulating 974,000 miles. He holds a Class A CDL from North Carolina. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

25. Thomas S. Thompson

Mr. Thompson, 61, is blind in his left eye due to trauma in 1974. His best-corrected visual acuity in the right eye is 20/20. His optometrist examined him in 2002 and certified, ''It is my opinion that this individual has sufficient vision to perform the driving tasks of operating a commercial vehicle as he has done previously for the past 25 years without incident.'' Mr. Thompson submitted that he has driven tractor-trailer combinations for 28 years, accumulating 2.1 million miles. Mr. Thompson holds a Class A CDL from Nebraska. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

26. Robert A. Wegner

Mr. Wegner, 38, has amblyopia in his left eye. His best-corrected visual acuity in the right eye is 20/20 and in the left, 20/200. Following an examination in 2002, his optometrist certified, ''The condition of amblyopia is one that Robert has compensated for his entire life and, in my opinion, will not impair his ability to safely operate any motor vehicle.'' Mr. Wegner submitted that he has driven tractor-trailer combinations for 7 years, accumulating 390,000 miles. He holds a Class A CDL from Minnesota. His driving record for the last 3 years shows no accidents and one conviction for a moving violation in a CMV. Mr. Wegner failed to obey a stop sign.

27. John E. Wertz

Mr. Wertz, 48, has amblyopia in his right eye. His best-corrected visual acuity in the right eye is 20/60 and in the left, 20/20. His optometrist examined him in 2002 and certified, ''In my medical opinion, I feel John is capable of performing the driving tasks necessary to operate a commercial vehicle.'' Mr. Wertz reported that he has driven tractor-trailer combinations for 14 years, accumulating 1.7 million miles. He holds a Class A CDL from Pennsylvania. His driving record shows no accidents or convictions for moving violations in a CMV during the last 3 years.

28. John W. Williams

Mr. Williams, 56, lost his left eye due to trauma in childhood. The visual acuity in his right eye is 20/20. An optometrist examined him in 2002 and certified, ''His visual capacity should be sufficient to perform commercial vehicle operation.'' Mr. Williams reported that he has driven straight trucks for 20 years, accumulating 322,000 miles, and tractor-trailer combinations for 12 years, accumulating 1.2 million miles. He holds a Class AM CDL from Illinois. His driving record for the last 3 years shows no accidents or convictions for moving violations in a CMV.

29. Christopher D. Yates

Mr. Yates, 31, has amblyopia in his left eye. His best-corrected visual acuity is 20/20 in the right eye and 20/60 in the left. Following an examination in 2002, his optometrist certified, ''Chris has sufficient vision to operate a commercial vehicle safely.'' Mr. Yates reported that he has driven straight trucks for 3 years, accumulating 60,000 miles. He holds a Class DC operator's license/CDL from Kentucky. His driving record shows no accidents and one conviction for a moving violation—''disregarding a stop sign''—in a CMV during the last 3 years.

Request for Comments

In accordance with 49 U.S.C. 31315 and 31136(e), the FMCSA requests public comment from all interested persons on the exemption applications described in this notice. We will consider all comments received before the close of business on the closing date indicated earlier in the notice.

Issued on: April 15, 2003.

Pamela Pelcouits,

Acting Associate Administrator, Policy, Plans and Regulation.

[FR Doc. 03–9731 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with part 211 of title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety regulations. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Norfolk Southern Corporation (Docket Number FRA–2002–11896)

Norfolk Southern Corporation (NS) seeks to modify existing waiver FRA–2002–11896, which is a conditional waiver of compliance from certain provisions of the Safety Appliances Standards, 49 CFR part 231, and Power Brakes and Drawbars regulations, 49 CFR part 232, concerning the operation of RoadRailer equipment in Triple Crown Service over their railroad system. Specifically, NS requests that FRA modify the existing waiver to incorporate the use of the new ''RoadRailer® Drawbar Connector'' in its RoadRailer operations.

NS would like to undertake the introduction of the new '' RoadRailer Drawbar'' technology in a two-phase

program. In Phase I, NS would operate a limited commercial test of the Drawbar. The intent is to gain experience with the new technology under controlled conditions in order to refine operating techniques and to develop and provide additional data to the FRA to support the use of this technology on a permanent basis. NS envisions that such a test would run for a period of approximately 90 days using two train sets. Train #262 from Calumet (Chicago, Illinois) to Piqua (Ft. Wayne, Indiana), approximately 190 miles, and Train # 253, from Oakwood (Detroit, Michigan) to Piqua (Ft. Wayne, Indiana), approximately 185 miles. The drawbar would be installed/removed only in Triple Crown terminals by RoadRailer personnel using a forklift. All affected personnel would be trained and the training will be documented.

Upon satisfactory completion of Phase I, all of the data collected will be submitted to FRA's Railroad Safety Board for consideration of modifying waiver FRA–2002–11896 to permanently authorize use of the new Drawbar in all aspects across the NS Triple Crown system. NS would like FRA to grant approval to operate the equipment, to include the following aspects: (1) The use of the drawbar to permit bi-directional operation of RoadRailer equipment in main-line service; (2) the use of the drawbar to permit the addition/subtraction of blocks of RoadRailer trailers at intermediate locations using the train crew, provided that the block is equipped with knuckle couplers at each end of the block; (3) removal of the restriction against backing RoadRailer equipment, provided that the backing move is protected by a CouplerMate bogie at the rear, that is equipped with appropriate safety appliances. Thus, Phase II would begin only if FRA approves the modification of the existing waiver.

NS requests the following amendments to the existing waiver: (1) Modify condition #8 to include the following exception: ''RoadRailer units in blocks containing a drawbar connector and having standard couplers on both ends of the block have no restrictions on where the blocks may be picked-up or set-out''; (2) Modify condition #12 with the insertion of the word ''shove''; where ''reverse movement'' would become ''reverse shove movement''; (3) reset the five-year expiration date on condition # 27; and (4) insert a new condition to permit the use of the RoadRailer drawbar for bi-directional operation of RoadRailer equipment.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (*e.g.,* Waiver Petition Docket Number FRA–2002–11896) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room PL–401, Washington, DC, 20590–0001. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at DOT Central Docket Management Facility, Room PL–401 (Plaza Level), 400 Seventh Street, SW., Washington, DC. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov*.

Issued in Washington, DC, on April 14, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–9721 Filed 4–18–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34324]

City of Childersburg Local Redevelopment Authority—Acquisition Exemption—Rail Line of the United States Government

The City of Childersburg Local Redevelopment Authority (City), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire approximately 12.68 miles of rail line from the United States Government, together with named facilities, located at the Alabama Army Ammunition Plant (AAAP), in Talladega County, AL. The United States Army (U.S. Army) is currently in the process of transferring AAAP from federal ownership to the City, which is the recipient of the property under the Base Realignment and Closure Act (BRAC). The line is currently being utilized under lease by the Central of Georgia Railway Company (CGRC), Norfolk Southern Railway Company (NS), and CSX Transportation, Inc. (CSXT).[1] The City will not be performing any operations over the line, but plans to continue the lease arrangements with the current lessees.

The parties intend to consummate the transaction no later than April 24, 2003.[2] The effective date of the exemption was March 31, 2003 (7 days after the notice was filed).

The City certifies that its projected revenues as a result of the transaction will not exceed those that would qualify it as a Class III rail carrier and will not result in the creation of a Class II or Class I rail carrier.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34324, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on B. J. Meeks, Mayor, 118 6th Avenue, SW., Childersburg, AL 35044.

Board decisions and notices are available on our website at *http://www.stb.dot.gov.*

Decided: April 11, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–9464 Filed 4–18–03; 8:45 am]

BILLING CODE 4915–00–P

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[1] The track is located approximately at milepost P401.0 by CGRC designation, approximately at milepost 102.1N by NS designation, and approximately at a wye track that runs south 8,716 feet from marker ANJ926 by CSXT designation. The rail line serves as a connector between two points of lessees' railways.

[2] By amendment filed April 11, 2003, the City states that it has been informed by the U.S. Army Corps of Engineers that the U.S. Army expects to transfer ownership of the rail line no later than April 24, 2003.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Electronic Sales Kit: Interview Guide

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the Electronic Sales Kit: Interview Guide.

DATES: Written comments should be received on or before June 20, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of information collection should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Electronic Sales Kit: Interview Guide.

OMB Number: To be assigned later.

Abstract: A guide used by IRS Wage & Investment Division (W&I)—Stakeholder Partnerships, Education and Communication (SPEC) and Small Business/Self-Employed Division (SB/SE)—Taxpayer Education and Communication (TEC) Field employees containing suggested questions to ask during in-person visitations and/or telemarketing calls with tax professionals to better direct a conversation leading to encouraging the tax professional to e-file.

Current Actions: This is a new collection of information.

Type of Review: New OMB Approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 1 hour, 30 minutes.

Estimated Total Annual Burden Hours: 3,000.

The following paragraph applies to all of the collections of information covered by this notice:

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 14, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–9781 Filed 4–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 14411

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 14411, Systemic Advocacy Issue Submission Form.

DATES: Written comments should be received on or before June 20, 2003 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form should be directed to Carol Savage at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3945, or through the Internet at *CAROL.A.SAVAGE@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Systemic Advocacy Issue Submission Form.

OMB Number: 1545–1832.

Form Number: Form 14411.

Abstract: Form 14411, Systemic Advocacy Issue Submission Form, is an optional use form for taxpayers (individual and business), tax professionals, trade and business associations, etc. to submit systemic problems. These problems may pertain to experiences with the Internal Revenue Service's processes, procedures or make legislative recommendations.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals, not-for-profit institutions, farms, Federal, State, Local or Tribal governments.

Estimated Number of Respondents: 420.

Estimated Time Per Response: 48 minutes.

Estimated Total Annual Burden Hours: 336.

The following paragraph applies to all of the collections of information covered by this notice:

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

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All

comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 15, 2003.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 03–9782 Filed 4–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Low Income Taxpayer Clinic Grant Program; Availability of 2004 Grant Application Package

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: This document contains a Notice that the IRS has made available the grant application package (Publication 3319) for parties interested in applying for a Low Income Taxpayer Clinic Grant for the 2004 grant cycle. The IRS will award a total of up to $6,000,000 or the amount appropriated by Congress to qualifying organizations.

DATES: Grant applications for the 2004 grant cycle must be received by the IRS (not postmarked) by July 1, 2003. Applications may be transmitted by mail or electronically.

ADDRESSES: Send completed grant applications to: Internal Revenue Service, Taxpayer Advocate Service, LITC Program Office Mail Stop 211–D, 401 W. Peachtree St. NW., Atlanta, GA 30308. To transmit an application electronically, go to *www.irs.gov/advocate.* Copies of the grant application package (IRS Publication 3319) can be downloaded from the IRS Internet site at: *www.irs.gov/advocate* or ordered by calling 1–800–829–3676.

FOR FURTHER INFORMATION CONTACT: The LITC Program Office at 404–338–7185 (not a toll-free number) or by email at *LITCProgramOffice@irs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Section 7526 of the Internal Revenue Code authorizes the IRS, subject to the availability of appropriated funds, to award organizations matching grants of up to $100,000 for the development, expansion, or continuation of qualified low income taxpayer clinics. Section 7526 authorizes the IRS to provide grants to qualified organizations that represent low income taxpayers in controversies with the IRS and/or inform individuals for whom English is a second language of their tax rights and responsibilities. The IRS may award grants to qualifying organizations to fund one-year, two-year or three-year project periods.

The 2004 LITC Application Package and Guidelines, Publication 3319, includes several changes that are being planned to improve IRS's understanding of and involvement with the technical components of the LITC Program. Among the changes, IRS is planning to work with clinics to establish issue committees, develop more comprehensive program standards, improve communications, and increase the emphasis on education and outreach programs to taxpayers for whom English is a second language. In addition, the package provides an explanation of ''ancillary'' as it relates to tax return preparation.

The costs of preparing and submitting an application are the responsibility of each applicant. Each application will be given due consideration and the LITC Program Office will main notification letters to each applicant.

Selection Criteria

Applications that pass the eligibility screening process will be numerically ranked in each of the areas listed below based on the information contained in their proposed program plan. Each criterion reflects the maximum number of points that may be assigned. In assigning numerical points, the IRS will evaluate the program plan based on how it will assist in accomplishment of the IRS mission and goals and meeting the LITC statutory requirements as stated elsewhere in the application package. Organizations can receive a maximum of 100 points. If you are applying for more than one qualifying activity (*i.e.*, representation, referral, ESL, or combination thereof) each type of program will be evaluated separately. The ranking points will be assigned as follows:

A. Quality of programs offered to assist low income taxpayers or individuals for whom English is a second language, including (Maximum 75 points)—

1. Qualifications of administrators and qualified representatives;
2. qualifications and tax expertise of qualified representatives;
3. comprehensiveness of services to be provided;
4. the amount of time devoted to the program by clinic staff;
5. training clinic participants will be provided;
6. plans for supervising clinic participants;
7. procedures for ensuring the confidentiality of taxpayer information;
8. publicity of clinic operations; and
9. the dates and days and hours of clinic operation.

B. Experience in sponsoring a tax clinic where individuals with tax controversies with the IRS were represented; or

Experience in sponsoring a tax clinic where individuals with tax controversies with the IRS were referred; or

Experience in providing a program to inform individuals for whom English is a second language about their rights and responsibilities. (Maximum 10 points)

C. Quality of grant administration and internal accounting procedures. (Maximum 10 points)

D. Number of low income and ESL taxpayers in geographical area. (Maximum 5 points)

Other Considerations

Please note that the IRS Volunteer Income Tax Assistance (VITA) Program is a separate and distinct program from the LITC grant program. Organizations currently participating in the VITA Program may be eligible to apply for a LITC grant if they meet the criteria and qualifications outlined in the LITC Grant Application Package & Guidelines (Publication 3319). Organizations that seek to operate both VITA and LITC programs must maintain separate and distinct programs to ensure proper cost allocation for LITC grant funds and adherence to both VITA and LITC program rules and regulations. In addition to the foregoing criteria, to foster parity regarding clinic availability and accessibility for taxpayers nationwide, the IRS will consider the geographic area of applicants as part of the decision making process. The IRS will also seek to attain a proper balance of academic and non-profit organizations as well as a proper balance of start-up and existing clinics.

Comments

Interested parties are encouraged to provide comments on the IRS's

administration of the grant program on an ongoing basis.

Nina E. Olson,

National Taxpayer Advocate, Internal Revenue Service.

[FR Doc. 03–9780 Filed 4–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, West Virginia, and Wisconsin)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted (via teleconference).

DATES: The meeting will be held Wednesday, May 7, 2003.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 297–1604.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 4 Taxpayer Advocacy Panel will be held Wednesday, May 7, 2003, from 11 a.m. central time to Noon Central daylight time via a telephone conference call. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service. You can submit written comments to the panel by faxing to (414) 297–1623, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 310 West Wisconsin Avenue, Milwaukee, WI 53203–2221. Public comments will also be welcome during the meeting. Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 297–1604 for dial-in information.

The agenda will include the following: Various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: April 15, 2003.

Deryle Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–9778 Filed 4–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted in Atlanta, Georgia.

DATES: The meeting will be held Wednesday, May 7 and Thursday, May 8, 2003.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227, or 718–488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Wednesday, May 7 and Thursday, May 8, 2003 from 9 a.m. to 4 p.m. EST in Atlanta, GA. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. For more information or to confirm attendance, notification of intent to attend the meeting must be made with Marisa Knispel. Mrs. Knispel may be reached at 1–888–912–1227 or 718–488–3557, or write Marisa Knispel, TAP Office, 10 Metrotech Center, 625 Fulton Street, Brooklyn, NY 11021, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include the following: Various IRS issues.

Note: Last minute changes to the agenda are possible and could prevent effective advance notice.

Dated: April 15, 2003.

Deryle Temple,

Director, Taxpayer Advocacy Panel.

[FR Doc. 03–9779 Filed 4–18–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0018]

Agency Information Collection Activities Under OMB Review

AGENCY: Office of General Counsel, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Office of General Counsel (OGC), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments mut be submitted on or before May 21, 2003.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030 or FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0018.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0018'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles:

a. Application for Accreditation as Service Organization Representative, VA Form 21.

b. Appointment of individuals as Claimant's Representative, VA Form 22a.

OMB Control Number: 2900–0018.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21 is used to obtain basic information necessary to determine whether an individual may be accredited as a service organization representative for the purposes of representation of claimants before the VA. The information is used to evaluate qualifications, ensure against conflicts of interest, and allow appropriate organization officials to certify the character and qualifications applicants. It is designed to ensure that regulatory standards for accreditation have been met so that claimants for VA benefits have available a pool of qualified claims representatives to assist them in the preparation, presentation, and prosecution of their claims.

VA Form 22a is used by a claimant for VA benefits to confer power of attorney upon an attorney, agent, or individual service organization representative in order that the attorney, agent, or individual representative may represent

the claimant in proceedings before VA. Generally, this power of attorney permits VA to release to the attorney, agent, or individual representative records pertinent to the benefit claim. The form contains a release to be completed by the claimant, which permits the claimant to authorize or prohibit VA from disclosing medical records specifically protected by 38 U.S.C. 7332.

An agency may not conducted 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 **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 17, 2002, at page 77320.

Affected Public: Individuals or households, Business or other for-profit, Not-for-profit institutions, and State, Local or Tribal Government.

Estimated Annual Burden:

a. VA Form 21—600 hours.

b. VA Form 22a—1,600 hours.

Estimated Average Burden Per Respondent:

a. VA Form 21—15 minutes.

b. VA Form 22a—15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. VA Form 21—2,400.

b. VA Form 22a—6,400.

Dated: April 7, 2003.

By direction of the Secretary:

Loise Russell,

Acting Director, Records Management Service.

[FR Doc. 03–9359 Filed 4–18–03; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 68, No. 76

Monday, April 21, 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.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 4, 16, 141, 157

[Docket No. RM03–6–000]

Amendments to Conform Regulations with Order No. 630 (Critical Energy Infrastructure Information Final Rule)

April 9, 2003.

Correction

Proposed Rule document 03–9267 was inadvertently published in the Rules and Regulations section of the issue of Wednesday, April 16, 2003 beginning on page 18538. It should have appeared in the Proposed Rules section.

[FR Doc. C3–9267 Filed 4–18–03; 8:45 am]

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INTER-AMERICAN FOUNDATION

Sunshine Act Meeting; Inter-American Foundation Meeting of the Board of Directors and Advisory Council

Correction

In notice document 03–8246 appearing on page 16304 in the issue of Thursday, April 3, 2003, make the following correction:

On page 16304, in the first column, under the heading **TIME AND DATE:**, in the first line, ''April 24, 2003'' should read '' April 25, 2003''.

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Federal Register

Monday,
April 21, 2003

Part II

Department of Energy

Federal Energy Regulatory Commission

18 CFR Parts 35, et al.

Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations; Final Rule

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 101, 154, 201, 346, and 352

[Docket No. RM02–7–000, Order No. 631]

Accounting, Financial Reporting, and Rate Filing Requirements for Asset Retirement Obligations

Issued April 9, 2003.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its regulations to update the accounting and financial reporting requirements for asset retirement obligations under its Uniform Systems of Accounts for public utilities and licensees, natural gas and oil pipeline companies.

The Commission is establishing uniform accounting and financial reporting for the recognition and measurement of liabilities arising from retirement and decommissioning obligations of tangible long-lived assets, and related costs. More specifically, the Commission is adding new balance sheet accounts to record the liability and the related asset, new income statement accounts to record the accretion of the liability and the depreciation of the related asset, adding and revising as necessary the definitions, general and plant instructions contained in the Uniform Systems of Accounts. The Commission is also revising the following Annual Reports: FERC Form Nos. 1, 1–F, 2, 2–A, and 6 to include the new accounts contained in the Final Rule. Finally, the Commission is revising its rate filing requirements to address the above-mentioned changes.

An important objective of the rule is to provide sound and uniform accounting and financial reporting for the above types of transactions and events. The new accounts and changes to the FERC Forms will add visibility, completeness and consistency of the accounting and reporting of liabilities for asset retirement obligations and the related asset retirement costs, the accretion expense on the liability and the depreciation expense on the capitalized asset retirement costs.

EFFECTIVE DATE: The rule will become effective May 21, 2003.

FOR FURTHER INFORMATION CONTACT:

Mark Klose (Project Manager), Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8283.

Raymond Reid (Technical Information), Office of the Executive Director, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6125.

Robert T. Catlin (Technical Information), Office of Markets, Tariffs, and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8754.

Julia A. Lake (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8370.

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I. Introduction

1. The Federal Energy Regulatory Commission (Commission) is revising its regulations to update the accounting, reporting and rate filing requirements. In a Notice of Proposed Rulemaking (NOPR) issued on October 30, 2002,[1] the Commission proposed to revise its Uniform Systems of Accounts[2] for public utilities and licensees,[3] natural gas companies[4] and oil pipeline companies[5] by establishing uniform accounting requirements for the recognition of liabilities for legal obligations associated with the retirement of tangible long-lived assets and the associated capitalization of these amounts as part of the cost of the asset giving rise to the obligation.

2. An asset retirement obligation is a liability resulting from a legal obligation to retire or decommission a plant asset. The types of work activities typically include removing or dismantling the asset. For example, public utilities have a legal liability to decommission nuclear plants under certain Nuclear Regulatory Commission (NRC) regulations. The type of activities may include the dismantlement and removal of the reactor vessel and the related contaminated facilities.

3. After carefully considering the comments received, the Commission has determined that a Final Rule revising its accounting regulations, Annual Report Forms (FERC Form Nos. 1, 1–F, 2, 2–A and 6), and rate filing requirements for asset retirement obligations should be issued.

4. The purpose of this Final Rule is to improve the usefulness and transparency of financial information provided to the Commission and other users of the FERC Forms by establishing uniform accounting and reporting requirements for legal obligations associated with the retirement of tangible long-lived assets. The Commission is of the view that such

[1] 67 FR 69816 (Nov. 19, 2002) and 67 FR 70890 (Nov. 27, 2002), IV FERC Stats. & Regs. ¶ 32,565 (Oct. 30, 2002).

[2] Section 301(a) of the Federal Power Act (FPA), 16 U.S.C. 825(a), section 8 of the Natural Gas Act (NGA), 15 U.S.C. 717g and section 20 of the Interstate Commerce Act (ICA) 49 App.U.S.C. 20 (1988), authorize the Commission to prescribe rules and regulations concerning accounts, records and memoranda as necessary or appropriate for the purposes of administering the FPA, NGA and the ICA. The Commission may prescribe a system of accounts for jurisdictional entities and, after notice and opportunity for hearing, may determine the accounts in which particular outlays and receipts will be entered, charged or credited.

[3] Part 101 Uniform System of Accounts Prescribed for Public Utilities and Licensees Subject to the Provisions of the Federal Power Act. *See* 18 CFR part 101 (2002).

[4] Part 201 Uniform System of Accounts Prescribed for Natural Gas Companies Subject to the Provisions of the Natural Gas Act. *See* 18 CFR part 201 (2002).

[5] Part 352 Uniform System of Accounts Prescribed for Oil Pipeline Companies Subject to the Provisions of the Interstate Commerce Act. *See* 18 CFR part 352 (2002).

requirements are needed because these types of transactions and events are not clearly or consistently reported. This rule is part of the Commission's ongoing effort to address emerging accounting developments within the context of the Uniform Systems of Accounts.

5. The accounting for asset retirement obligations in this rule is consistent with the accounting and reporting requirements that jurisdictional entities will use in their general purpose financial statements provided to shareholders and the Securities Exchange Commission (*e.g.*, companies will separately account and report the liability for the asset retirement obligations, capitalize the asset retirement costs, charge earnings for depreciation of the asset and charge operating expense for the accretion of the liability).

6. The Commission is also revising its rate filing requirements to accommodate the above-mentioned changes. In that regard, the accounting for asset retirement obligations will not affect jurisdictional entities' ability to seek recovery of costs arising from asset retirement obligations in rates. However, if billings under formula rate tariffs are affected by the adoption of these accounting requirements, the jurisdictional entity must obtain approval from the Commission prior to implementing the change for tariff billing purposes.

7. Finally, the Commission is revising the following Annual Reports: FERC Form No. 1, Annual Report of Major Public Utilities, Licensees and Others (Form 1); FERC Form No. 1–F, Annual Report of Nonmajor Public Utilities and Licensees (Form 1–F); FERC Form No. 2, Annual Report of Major Natural Gas Companies (Form 2); FERC Form No. 2–A, Annual Report of Nonmajor Natural Gas Companies (Form 2–A); and FERC Form No. 6, Annual Report of Oil Pipeline Companies (Form 6) to include the new accounts and the revised schedules.[6]

II. Background

8. The recognition and measurement of legal liabilities associated with the retirement and decommissioning of long-lived assets by various entities, including Commission jurisdictional entities, have been inconsistent over the years. Some jurisdictional entities do not recognize asset retirement obligations in their accounts while other jurisdictional entities only recognize the amounts included in the rate setting process as a component of accumulated depreciation. The Commission, in an effort to eliminate the inconsistencies in accounting practices by jurisdictional entities for asset retirement obligations, issued its October 30, 2002 Notice of Proposed Rulemaking to revise the accounting regulations, FERC Annual Report Forms and rate filing requirements for asset retirement obligations.[7]

9. The scope of the NOPR covered certain legal obligations associated with the future retirement of long-lived assets. These obligations, generally referred to as asset retirement obligations, are legal obligations associated with the retirement of a tangible long-lived asset that an entity is required to settle as a result of an existing enacted law, statute, ordinance, or written or oral contract or by legal construction of a contract under the doctrine of promissory estoppel.[8]

10. In the NOPR, the Commission broadly set forth the proposed accounting framework for asset retirement obligations as follows:

11. An entity essentially recognizes a liability for the fair value of an asset retirement obligation at the time the asset is constructed, acquired, or when a change in the law creates a legal obligation to perform the retirement activities. Upon initial recognition of that liability, an entity also increases the cost of the related asset that gives rise to the legal obligation by the same amount. The liability is increased over time until the actual retirement activity commences. Additionally, the asset retirement cost capitalized is depreciated over the same life of the related asset giving rise to the obligation. An entity is required to re-measure the liability due to the passage of time and certain other changes in the estimate of the liability.

12. Entities will be required to recognize the liabilities for asset retirement obligations and the related costs as if the new standard had been in effect for all prior periods. The difference between the amounts at the date of adoption and the amounts previously recorded for these items are to be included in net income unless the criteria for recognition of regulatory assets or liabilities are met under Order No. 552.[9]

III. Discussion

13. The Commission received 16 comments concerning various aspects of the proposed rule.[10] The majority of the commenters were generally supportive of the Commission's effort to provide interpretative guidance on the application of generally accepted accounting principles to jurisdictional entities that presently file financial information with the Commission in Annual Report Forms 1, 1–F, 2, 2–A, and 6.[11]

14. After careful consideration of the comments received, the Commission is adopting the changes and revisions as proposed with certain modifications and clarifications as discussed below.

A. Accounting for the Cumulative Effect Adjustment

15. Upon initial implementation of the new accounting requirements for asset retirement obligations the Commission proposed that jurisdictional entities establish in their accounts all of the amounts that would have been recorded therein had these new requirements always been in effect. The NOPR referred to the accounting entries required to implement this part of the proposal as ''transition adjustments.'' In certain instances, the transition adjustments could result in a charge or credit to net income. This charge or credit is referred to as the ''cumulative effect adjustment'' because it represents the cumulative difference between all amounts charged to net income for asset retirement obligations in past periods under the prior accounting method and what would have been charged to net income in those periods had these new accounting requirements set forth in the NOPR always been in effect. For rate regulated entities the cumulative effect adjustment amounts will be recognized as a regulatory asset or liability if the requirements of Commission Order No. 552 are met.[12]

16. The Commission proposed to record the cumulative effect adjustment

[6] The FERC Annual Reports bear the following OMB approval control numbers: Form 1 has OMB approval number 1902–0021; Form 1–F has OMB approval number 1902–0029; Form 2 has OMB approval number 1902–0028; Form 2–A has OMB approval number 1902–0030; and Form 6 has OMB approval number 1902–0022.

[7] *See supra* note 1.

[8] *See* Financial Accounting Standards Statement (FAS) No. 143, Accounting for Asset Retirement Obligations, issued in June 2001. The accounting publication may be obtained from FASB at *http://www.fasb.org/*. Appendix A, paragraphs A2 through A5, contains a discussion of legal obligations.

[9] *See* Order No. 552, 58 FR 17982 (Apr. 7, 1993), FERC Stats. & Regs., Regulations Preambles January 1991–June 1996 ¶ 30,967 at pp. 30,823–26 (Mar. 31, 1993) for guidance on the recognition of regulatory assets and regulatory liabilities when certain conditions are met.

[10] *See* Appendix A for Listing of Commenters.

[11] *See* Arkansas PSC at p. 2, Deloitte & Touche at p. 1, FirstEnergy at p. 2, NASUCA at pp. 2–3, NRECA at pp. 3–4, Progress Energy at p. 1 and Southern at p. 1.

[12] *See* Order No. 552, *supra* note 9, for guidance on the recognition of regulatory assets and regulatory liabilities when certain conditions are met.

in two separate amounts. The first portion of the cumulative effect adjustment assumes that all amounts included in the accumulated depreciation accounts for previously recognized legal retirement obligations will be considered depreciation of the asset retirement costs capitalized under the proposed rule. The difference between the amount included in the accumulated depreciation for previously recognized legal retirement obligations and the accumulated depreciation on the capitalized asset retirement costs recognized under the new accounting requirements will be charged or credited, as appropriate, to net income or recognized as a regulatory asset or liability if the requirements of Order No. 552 are met. The second portion of the cumulative effect adjustment assumes that all amounts related to the accretion of the liability for the asset retirement obligation under the new requirements would be charged to net income or recognized as a regulatory asset if the requirements of Order No. 552 are met.

Comments Received

17. Two commenters assert that the NOPR was unclear as to the initial implementation details of the proposed accounting rules and seek clarification of this matter in the final rule.[13] The commenters request the Commission to clarify the components included in the cumulative effect adjustment. FirstEnergy asserts that the components of the cumulative effect adjustment may consist of the net of the cumulative accretion on the asset retirement obligation, the accumulated depreciation on the related capitalized asset retirement cost, and the reversal of any previously accrued legal retirement obligation.

18. FirstEnergy notes that the NOPR only addresses amounts included in accumulated depreciation for accruals of previously recognized legal retirement obligations of long-lived assets. The commenter submits that the Commission has permitted amounts related to legal liabilities associated with the retirement of assets to be recorded in a deferred credit or liability account rather than in accumulated depreciation. The commenter asserts further that accruals of previously recognized legal retirement obligations that were recorded in a deferred credit or in a liability account should be included in the computation of the cumulative effect adjustment in the final rule.

[13] *See* FirstEnergy at p. 2 and Progress Energy at p. 2.

Commission Response

19. The proposal to establish the cumulative effect adjustment was intended to simplify implementation of the accounting for asset retirement obligations. However, based on the comments received the Commission recognizes that the implementation proposal may have been confusing because the steps were somewhat different than the ones contained in FAS 143. However, the Commission notes that the cumulative effect determination under FAS 143 and this final rule will result in the use of the same components and produce the same cumulative effect adjustment amount.

20. The Commission finds that since both approaches produce the same cumulative effect adjustment for asset retirement obligations, jurisdictional entities may recognize the initial application of the new accounting rules for the cumulative effect adjustment as the difference between the amounts of previously accrued accumulated legal obligations associated with the retirement of the asset recognized in the balance sheet prior to adopting the new accounting requirements and the amount that will be recognized on the balance sheet under the new accounting requirements. The Commission also finds that in order to properly determine the proper cumulative effect adjustment, jurisdictional entities must include the amounts of previously accrued accumulated legal obligations associated with the retirement of assets recorded in other deferred credits accounts or other liability accounts in the computation of the cumulative effect adjustment.

B. Recognition of Regulatory Assets and Liabilities

21. The Commission proposed that public utilities, licensees and natural gas companies recognize regulatory assets and liabilities related to asset retirement obligations if the accounting requirements under Order No. 552 are met.[14]

Comments Received

22. Several commenters request that the Commission clarify in the final rule the accounting for the recognition of regulatory assets and liabilities for the effects on financial operations related to the initial implementation and the period-to-period accounting for any difference between amounts charged to net income for expenses related to asset retirement obligations and the amounts recovered in rates for asset retirement obligation costs.[15] The commenters assert that the proposed accounting for the recognition of the debit cumulative effect adjustment in account 182.3, Other regulatory assets, as a regulatory asset is not consistent with the accounting for the recognition of the credit cumulative effect adjustment as a regulatory liability in account 254, Other regulatory liabilities.[16] The commenters suggest that inconsistency arises because the Commission required that a credit cumulative effect adjustment must be recorded as a regulatory liability in account 254, Other regulatory liabilities, while a debit cumulative effect adjustment must be charged to net income in account 435, Extraordinary deductions, or recorded as a regulatory asset in account 182.3, Other regulatory assets, for part or all of the cumulative effect adjustment if the requirements of Order No. 552 are met. One commenter suggests that the Commission should provide for the recording of regulatory assets for debit cumulative effect adjustments as being probable of recovery as a general rule consistent with the Commission's proposed treatment of recording credit cumulative effect adjustments as regulatory liabilities.

23. Additionally, one commenter recommends that the Commission incorporate the accounting for the recognition of regulatory assets and liabilities for the initial adoption and the period-to-period accounting for asset retirement obligations in the requirements of the Uniform Systems of Accounts under Parts 101 and 201.[17]

Commission Response

24. The Commission declines to adopt the commenter's recommendation to amend the Uniform System of Accounts under part 101 and part 201 of the Commission regulations to include specific accounting instructions for the recognition of regulatory assets and liabilities for the initial adoption and the period-to-period accounting for asset retirement obligations. The accounting instruction for regulatory assets and liabilities as prescribed in the Uniform Systems of Accounts in part 101 and part 201 adequately addresses the requirements for regulatory assets or liabilities related to differences in the timing of recognition of asset retirement obligation expenses for financial

[14] *See* Order No. 552, *supra* note 9, for guidance on the recognition of regulatory assets and regulatory liabilities when certain conditions are met.

[15] *See* Deloitte & Touche at p. 1, EEI at pp. 3–4, Progress Energy at p. 2, and RUS at p. 3.

[16] *See* Deloitte & Touche at p. 1, EEI at pp. 3–4, Progress Energy at p. 2, and RUS at p. 3.

[17] *See* EEI at p. 6.

accounting purposes and their recovery in rates.

25. The Commission established the accounting requirements for recording regulatory assets and liabilities as set forth in the Uniform Systems of Accounts in part 101 and part 201 pursuant to Commission Order No. 552.[18] Under these requirements regulatory assets and liabilities are defined as assets and liabilities that result from ratemaking actions of regulators.[19] Regulatory assets and liabilities generally arise from specific revenues, expenses, gains, or losses that would have been included in net income determinations in one period under the general requirements of the Uniform System of Accounts but for it being probable they will be included in a different period(s) for purposes of developing the rates the utility is authorized to charge for its utility services or in the case of regulatory liabilities, for refunds to customers, not provided for in other accounts, that will be required.[20] The term ''probable,'' as used in Order No. 552 for the definition of regulatory assets or regulatory liabilities, refers to that which can be reasonably be expected or believed on the basis of available evidence or logic but is neither certain nor proved.[21]

26. Jurisdictional entities will initially recognize a cumulative effect adjustment and thereafter record the depreciation of the asset retirement costs in account 403.1, Depreciation expense for asset retirement costs, and the accretion of the liability for the asset retirement obligations in account 411.10, Accretion expense. The amounts for depreciation and accretion expense that will be recognized under the general requirements of the Uniform Systems of Accounts and the amount of asset retirement obligation costs included in cost of service for ratemaking purposes may be different. Recognition of such differences as regulatory assets and liabilities may be appropriate in some instances, but not in others. This determination however cannot be made in a generic accounting rulemaking proceeding. It must instead be made by each individual entity taking into consideration the jurisdictional entity's rate setting bodies, the specific agreements entered into between the jurisdictional entity and certain customers regarding the manner in which costs will be allocated among the parties or other relevant evidence. Therefore, if the requirements of Order No. 552 are met, a jurisdictional entity must recognize regulatory assets and liabilities for the cumulative effect adjustment and any differences between the recognition of asset retirement obligation expenses for financial accounting purposes and their recovery in rates.

C. Authority To Adjust Accumulated Depreciation (Accounts 108 and 110)

27. The Commission proposed granting public utilities, licensees and natural gas companies the requisite authority to remove any excess amounts[22] from accounts 108 and 110 provided that the amounts were transferred to account 254, Other regulatory liabilities.[23]

Comments Received

28. Certain commenters request that the Commission clarify the authority granted to jurisdictional entities to adjust the balances in accounts 108 and 110 for existing long-lived assets with legal retirement obligations.[24] However, one commenter requests that the Commission provide explicit authority to remove all of the previously accrued amounts for legal obligations to retire or dispose of the long-lived assets recorded in accounts 108 and 110. Another commenter requests the Commission allow transferring from accounts 108 and 110 to the new proposed account 230, Asset retirement obligations, any remaining amounts for previously accrued legal obligations to retire or dispose of the long-lived assets.

29. Another commenter agrees with the Commission's pregranting authority to public utilities, licensees and natural gas companies for the removal of amounts from accumulated depreciation accounts associated with asset retirement obligations. However, the commenter asserts that the Commission should still require public utilities, licensees and natural gas companies to notify the Commission by submitting a description and journal entries related to such adjustments to the Commission for amounts transferred from accounts 108 and 110 to account 254, Other regulatory liabilities, related to any existing asset with a legal retirement obligation.[25]

Commission Response

30. After considering the comments, the Commission will grant jurisdictional entities the authority to adjust accounts 108, 110 and 253 to properly recognize and record the liabilities for legal retirement obligations for existing assets, the asset retirement costs and related accumulated depreciation on the capitalized costs when the amounts that would otherwise be included in net income determinations meet the criteria for recognition as regulatory asset or liability.

31. The Commission notes that there may be instances where adjustments to accounts 108, 110 and 253 may be required as a result of this final rule but the criteria for the recognition of a regulatory asset or liability for the net income effect is not met. While we permit jurisdictional entities to make such adjustments our actions here should not be construed as approval.[26] Therefore, the Commission will require that jurisdictional entities file with the Commission their journal entries along with supporting information to record any adjustment that affects net income within 60 days of the effective date of this final rule. The filing must include a description and explanation of the full particulars for including the amounts in net income.

32. The filing must also include a statement by the public utility, licensee or natural gas company of the facts and circumstances and the explicit determinations made by the jurisdictional entity demonstrating that the amounts credited to net income are not required to be refunded to customers or required to be recorded as a regulatory liability and must be credited to net income and not included in account 254, Other regulatory liabilities.

[18] *See* Order No. 552, *supra* note 9, for guidance on the recognition of regulatory assets and regulatory liabilities when certain conditions are met.

[19] *See* paragraph A of account 182.3, Other regulatory assets, and paragraph A of account 254, Other regulatory liabilities, in 18 CFR part 101 (Public Utilities and Licensees), and paragraph A of account 182.3, Other regulatory assets, and paragraph A of account 254, Other regulatory liabilities, in 18 CFR part 201 (Natural Gas Companies).

[20] *See* Definition 30 in 18 CFR part 101 (Public Utilities and Licensees), and Definition 30 in 18 CFR part 201 (Natural Gas Companies).

[21] *See* FERC Stats. & Regs., Regulations Preambles January 1991–June 1996 ¶ 30,967 at 30,826 (1993).

[22] This excess amount results when the amount of accumulated depreciation recognized for prior accrued legal retirement obligations is greater than the accumulated depreciation recognized on the capitalized asset retirement costs under the new requirements.

[23] *See* paragraph E to account 108, Accumulated provision for depreciation of electric utility plant (Major only), and paragraph E to account 110, Accumulated provision for depreciation and amortization of electric utility plant (Nonmajor only), in 18 CFR part 101 (Public Utilities and Licensees).

[24] *See* EEI at pp. 2–3 and Progress Energy at p. 2.

[25] *See* MoPSC at p. 6.

[26] The income accounts used to record the cumulative effect adjustments are account 434, Extraordinary income, and account 435, Extraordinary deductions.

D. Accounting for Cost of Removal That Does Not Constitute a Legal Obligation

33. The Commission did not propose to change its accounting under parts 101, 201 and 352 for the cost of removal for amounts that result from other than asset retirement obligations.

Comments Received

34. Several commenters request that the Commission specify in the final rule that any cost of removal for non-legal retirement obligations remain in accumulated depreciation.[27] Certain other commenters suggest that the Commission should make certain modifications to the Uniforms Systems of Accounts under part 101 and part 201 to include the amount of cost of removal for non-legal obligations as regulatory liabilities in account 254, Other regulatory liabilities, instead of accumulated depreciation for public utilities, licensees and natural gas companies.[28]

35. One commenter recommends that the Commission exclude the cost of removal that does not qualify as a legal retirement obligation from the depreciation accrual and instead capitalize any removal costs related to the asset replaced as part of the costs of replacing the utility plant and if no replacement of the asset occurs, the cost of removal for non-legal retirement obligations should be expensed in the income statement.[29]

Commission Response

36. As proposed in the NOPR, the rule applies to legal obligations associated with the retirement of tangible long-lived assets. Under the existing requirements of the Uniform Systems of Accounts removal costs that are not asset retirement obligations are included as a component of the depreciation expense and recorded in accumulated depreciation.[30] The Commission notes that certain jurisdictional entities may have been receiving specific allowances for cost of removal for non-legal retirement obligations as a specific component in their rates approved by their regulators. The Commission did not propose any changes to its existing accounting requirements for cost of removal for non-legal retirement obligations. Accordingly, jurisdictional entities are accounting for such costs consistent with the requirements of the Uniform Systems of Accounts under part 101 for public utilities and licensees, part 201 for natural gas companies and part 352 for oil pipeline companies.

37. The purpose of this rule is to establish uniform accounting requirements for the recognition of liabilities for legal obligations associated with the retirement of tangible long-lived assets. The accounting for removal costs that do not qualify as legal retirement obligations falls outside the scope of this rule. The Commission is aware that there is an ongoing discussion in the accounting community as to whether the cost of removal should be considered as a component of depreciation. However, this issue is beyond the scope of this rule and we are not convinced that there is a need to fundamentally change accounting concepts at this time.

38. Instead we will require jurisdictional entities to maintain separate subsidiary records for cost of removal for non-legal retirement obligations that are included as specific identifiable allowances recorded in accumulated depreciation in order to separately identify such information to facilitate external reporting and for regulatory analysis, and rate setting purposes. Therefore, the Commission is amending the instructions of accounts 108 and 110 in parts 101, 201 and account 31, Accrued depreciation—Carrier property, in part 352 to require jurisdictional entities to maintain separate subsidiary records for the purpose of identifying the amount of specific allowances collected in rates for non-legal retirement obligations included in the depreciation accruals.

39. Jurisdictional entities must identify and quantify in separate subsidiary records the amounts, if any, of previous and current accrued accumulated removal costs for other than legal retirement obligations recorded as part of the depreciation accrual in accounts 108 and 110 for public utilities and licensees, account 108 for natural gas companies, and account 31 for oil pipeline companies. If jurisdictional entities do not have the required records to separately identify such prior accruals for specific identifiable allowances collected in rates for non-legal asset retirement obligations recorded in accumulated depreciation, the Commission will require that the jurisdictional entities separately identify and quantify prospectively the amount of current accruals for specific allowances collected in rates for non-legal retirement obligations.

E. Accounts Established for Recording Accretion of Asset Retirement Obligations and Depreciation of Asset Retirement Costs

40. The Commission proposed to add a new income statement account entitled account 411.10, Accretion expense, in the Uniform Systems of Accounts in part 101 and part 201 to record the accretion of the liability for the asset retirement obligation. The Commission also proposed to add a new income statement account entitled account 403.1, Depreciation expense for asset retirement costs, in part 101 and part 201 to identify the depreciation expense recorded for capitalized asset retirement costs.

Comments Received

41. Certain commenters recommend that the Commission's proposed new account 411.10, Accretion expense, should be renumbered as either account 411.11 or an account number within the range of account 405, Amortization of other electric plant, through account 407, Amortization of property losses, unrecovered plant and regulatory study costs, which relate to the amortization of utility plant.

42. Two commenters suggest that the Commission renumber its proposed new account 403.1 because it is already being used in the Rural Utilities Service's (RUS) Uniform System of Accounts.[31] The commenters suggest that the Commission use account 403.9 to accommodate the Uniform System of Accounts of RUS for its electric cooperatives.[32]

Commission Response

43. The Commission will not renumber the chart of accounts. The accounting structure of the Uniform Systems of Accounts in part 101 and part 201 is designed to meet the accounting and reporting needs of this Commission. Users are permitted to adapt the Commission's Uniforms Systems of Accounts for their own needs by allowing them to create new accounts and subaccounts. Such company generated accounts however, must be reconciled if and when the Commission subsequently determines to use that account number for its regulatory purposes. Therefore, jurisdictional entities must reconcile their account numbers accordingly, to

[27] *See* EEI at p. 3 and Southern at p. 2.

[28] *See* Deloitte & Touche at p. 2 and NASUCA at pp. 2–3.

[29] *See* NASUCA at pp. 15–17.

[30] *See* Definition 10 in 18 CFR part 101 (Public Utilities and Licensees), Definition 10 in 18 CFR part 201 (Natural Gas Companies), and Definition 12 in 18 CFR part 352 (Oil Pipeline Companies).

[31] *See* RUS at p. 2 and NRECA at p. 6.

[32] *See* Rural Utilities Service of the United States Department of Agriculture (RUS) Uniform System of Accounts, 7 CFR part 1767, Accounting Requirements for RUS Electric Borrowers.

the account numbers established by this rule.[33]

F. Accounts for Recording Asset Retirement Costs

44. The Commission proposed to add new primary plant accounts within each plant function to record the asset retirement costs.

Comments Received

45. Certain commenters object to the Commission's proposed new primary plant accounts within account 101 in part 101 and part 201[34] One commenter suggests the Commission create a new separate asset group called ''Asset Retirement Costs'' that separately identifies asset retirement costs in financial statements and would facilitate the exclusion of the asset retirement costs from the rate base in a rate change filing.

46. Another commenter suggests that capitalizing asset retirement costs in the new primary plant accounts could result in increasing personal property taxes for three of its utility operating companies that operate in one state. The commenter recommends that the asset retirement costs should be recorded as an intangible cost within account 101 under part 101 and part 201 in primary plant account 303, Miscellaneous intangible plant. As an alternative, the commenter also recommends that the Commission include the word ''intangible'' in the account instructions of the new asset retirement cost primary plant accounts proposed by the Commission.

47. One commenter suggests that the Commission's proposed new primary plant accounts entitled account 359.1, Asset retirement costs for transmission plant, and account 399.1, Asset retirement costs for general plant, should be renumbered to avoid leading users to expect these are subaccounts of account 359, Roads and trails, under the transmission plant function and 399, Other intangible plant, under the general plant function in part 101.[35] The commenter suggests that the Commission use account 351 which is currently a reserved account in the list of accounts for the transmission plant function. The commenter also suggests that the Commission use account 388 which is currently not an account used in the list of accounts for the general plant function.

Commission Response

48. The Commission finds that these recommendations are not consistent with the view that asset retirement costs are considered an integral part of the costs of the particular asset that gives rise to the asset retirement obligations, rather than separate and distinct assets.

49. The Commission notes that commenters' suggestions will not result in properly classifying asset retirement costs within the utility plant function associated with the actual plant assets that give rise to the legal retirement obligations. This result would be at odds with one of the objectives of the final rule, which is to provide proper accounting for legal obligations associated with the retirement costs.

G. Accounting for Gains and Losses for the Settlement of Asset Retirement Obligations Related to Electric and Gas Utility Plant

50. The Commission proposed to record gains or losses resulting from the settlement of asset retirement obligations for electric and gas utility plant in account 411.6, Gains from disposition of utility plant, and the account 411.7, Losses from disposition of utility plant, respectively.

Comments Received

51. Many of the commenters did not object the Commission's proposed treatment for gains and losses resulting from the settlement of asset retirement obligations for electric and gas utility plant.[36] Two commenters believe that the Commission's proposed treatment is inappropriate in the situation in which a jurisdictional entity has recorded, at the date of adoption of the final rule, a regulatory asset or liability for the full difference (including third party risk factor) between the asset retirement obligation determined for accounting purposes and the asset retirement obligation allowed for ratemaking purposes.[37] In this situation the commenters assert it is appropriate to offset any remaining regulatory asset or liability balance associated with the specific asset retirement obligation against the remaining asset retirement obligation liability balance before recording a gain or loss.

Commission Response

52. The Commission notes that the offsetting of any remaining regulatory asset or liability balance associated with the specific asset retirement obligation against the remaining associated asset retirement obligation liability balance before recording a gain or loss on the settlement is not appropriate because each of these transactions is a separate and distinct accounting transaction, and accordingly, should be accounted for as such. Therefore, the Commission will adopt the accounting as provided for in the NOPR.

H. Accounting for Gains and Losses for the Settlement of Asset Retirement Obligations Related to Nonutility Plant

53. The Commission proposed that any gains or losses relating to the settlement of asset retirement obligations for nonutility plant must be recorded directly in account 421, Miscellaneous nonoperating income, and account 426.5, Other deductions, respectively. The Commission also proposed to revise the text of accounts 421 and 426.5 in part 101 and part 201 of the Commission's regulations.

Comments Received

54. One commenter suggests that, although the use of these accounts are not necessarily objectionable, it would be more appropriate to record a gain or loss resulting from the settlement of asset retirement obligations for nonutility plant directly in account 421.1, Gain on disposition of property, or account 421.2, Loss on disposition of property, respectively.[38]

Commission Response

55. The instructions to Accounts 421.1 and 421.2 provide for gains or losses on the sale, conveyance, exchange, or transfer of utility or other property to another.[39] The settlement of an asset retirement obligation related to nonutility property does not result in the sale, conveyance, exchange, or transfer of such property to another party. Therefore, the Commission is of the view that the accounting for gains or losses resulting in the settlement of asset retirement obligations for nonutility property should be accounted for in accounts 421 and 426.5 as provided for in the NOPR.

I. Other Accounting Matters

56. Certain commenters raised concerns or seek Commission guidance concerning the use of group depreciation for asset retirement

[33] *See* General Instruction 3.C, Account Numbering System, in 18 CFR part 101 (Public Utilities and Licensees) and 18 CFR part 201 (Natural Gas Companies).

[34] *See* FirstEnergy at p. 1, MoPSC at pp. 4–5 and RUS at p. 2.

[35] *See* RUS at p. 2.

[36] *See* EEI at p. 6 and Southern at p. 2.

[37] *See* FAS 143, paragraph A20, for a discussion of third party risk.

[38] *See* EEI at p. 6.

[39] *See* account 421.1, Gain on disposition of property, or account 421.2, Loss on disposition of property, in 18 CFR part 101 (Public Utilities and Licensees) and 18 CFR part 201 (Natural Gas Companies).

obligations, and on how a jurisdictional entity should estimate a credit-adjusted risk-free rate where an entity has not found a need to obtain a credit rating.[40]

57. The Commission will not make policy calls in this final rule concerning the above matters. These matters are better resolved on a case-by-case basis based on the facts and circumstances of each jurisdictional entity. Additionally, jurisdictional entities may seek clarification from the Commission's Chief Accountant concerning the proper application or implementation of any accounting standard under the Commission's regulations.[41]

58. Finally, one commenter suggests that the NOPR does not address the current accounting for realized earnings from trust funds that have been established for the purpose of ultimately discharging the liability for asset retirement obligations.[42] The commenter notes that jurisdictional entities currently account for realized earnings on trust funds by crediting account 419, Interest and dividend income. The commenter recommends that the realized earnings on trust funds should be recorded to an appropriate above-the-line account.

59. The Commission notes that under certain circumstances jurisdictional entities have placed in a special fund amounts deposited with a trustee for future activities such as the decommissioning of a nuclear plant. Amounts placed in a special fund for this type of activity are recorded in account 128, Other special funds. Additionally, under the requirements of the Uniform Systems of Accounts, interest revenues on securities, special deposits, and all other interest bearing assets included in other special fund accounts are recorded in Account 419, Interest and dividend income. Realized earnings on trust funds are nonoperating in nature and are properly included in account 419. Therefore, the Commission declines to amend the Uniform Systems of Accounts.

J. Tariff Filing Requirements

1. Tariff Filing Requirements Under 18 CFR Part 35 and 18 CFR Part 154

60. In the NOPR, the Commission stated that the proposed rule will require public utilities, licensees or natural gas companies for accounting purposes to recognize asset retirement obligations. The Commission is not requiring jurisdictional entities with stated rate tariffs to make any tariff filings with the Commission due to this final rule at this time. However, public utilities, licensees and natural gas companies with formula rate tariffs must not include any cost components related to asset retirement obligations in their formula rate billing tariffs for automatic recovery in their billing determinations without obtaining Commission approval.

61. Various commenters have expressed support and concerns or asked for Commission decisions with respect to issues concerning the possible rate impact of the proposed rule. Two commenters state their support for the Commission's proposed rate treatment of asset retirement obligations.[43] Other commenters raised concerns or seek Commission policy calls concerning regulatory certainty for disposition of transition costs, external funds for amounts collected in rates for asset retirement obligations, adjustments to book depreciation rates for companies collecting cost of removal through current depreciation rates, the exclusion of accumulated depreciation and accretion for asset retirement obligations from rate base, recognizing previously established negative salvage allowances whether or not these retirement costs are recognized as asset retirement obligations, and the requirement of a detailed study in support of tariff filings reflecting asset retirement obligations.[44]

62. The Commission finds that the issue of whether, and to what extent, a particular asset retirement cost must be recovered through jurisdictional rates should be addressed on a case-by-case basis in the individual rate change filed by public utilities, licensees, and natural gas companies. To ensure that all rate base amounts related to asset retirement obligations can be identified and excluded from the rate base calculation in a rate change filing, the Commission adds § § 35.18 and 154.315 to its rate change filing requirements. These new regulations require that public utilities, licensees, and natural gas companies who have recorded an asset retirement obligation on their books in accordance with this rule must, as part of any initial rate filing or general rate change filing, provide a schedule identifying all cost components related to the asset retirement obligation that are included in the book balances of all accounts reflected in the cost of service computation supporting the proposed rates. In addition, the regulations require that all asset retirement obligations related rate base items be removed from the rate base computation through an adjustment. If the public utility, licensee or natural gas company is seeking recovery of an asset retirement obligation in rates, it must also provide a detailed study supporting the amounts proposed to be collected in rates. If the public utility, licensee or natural gas company is not seeking recovery of the asset retirement obligation in rates, then it must remove all asset retirement obligation related cost components from its cost of service.

63. For natural gas companies currently collecting a negative salvage allowance in jurisdictional rates, negative salvage allowances that are not established due to an asset retirement obligation must be identified for rate making purposes separately from asset retirement obligation allowances. The current rate change filing requirement for natural gas companies at § 154.312(d), Statement D, requires that any authorized negative salvage must be maintained in a separate subaccount of account 108, Accumulated provision for depreciation of gas utility plant. The Commission is amending this section to ensure that this subaccount does not include any amounts related to asset retirement obligations.

64. The Commission will decline to make policy calls concerning regulatory certainty for disposition of transition costs, external funds for amounts collected in rates for asset retirement obligations, adjustments to book depreciation rates, and the exclusion of accumulated depreciation and accretion for asset retirement obligations from rate base are matters that are not subject to a one size fits all approach and are better resolved on a case-by-case basis in rate proceedings. The Commission is of the view that utilities will have the opportunity to seek recovery of qualified costs for asset retirement obligations in individual rate proceedings. This rule should not be construed as pregranted authority for rate recovery in a rate proceeding.

65. Finally this rule requires nothing new and nothing more with respect to the requirement for a detailed study. Complex depreciation and negative salvage studies are routinely filed or otherwise made available for review in rate proceedings. When utilities perform depreciation studies, a certain amount of detail is expected. It is incumbent upon the utility to provide sufficient detail to support depreciation rates, cost

[40] *See* Ferguson at p. 5 and NRECA at p. 6.

[41] *See* General Instruction 5, Submittal of Questions, in 18 CFR part 101 (Public Utilities and Licensees), General Instruction 5, Submittal of Questions, in 18 CFR part 201 (Natural Gas Companies), and General Instruction 1–11, Interpretation of rules, in 18 CFR part 352 (Oil Pipeline Companies).

[42] *See* EEI at p. 5.

[43] *See* MoPSC at p. 4 and NRECA at p. 7.

[44] *See* Northern Natural at pp. 1–2, MoPSC at p. 5, Deloitte & Touche at pp. 1–2, EEI at p. 9, Southern at pp. 2–3, and Ferguson at pp. 5 and 8.

of removal, and salvage estimates included in rates.[45] To the extent a utility believes materials are entitled to be non-public, protective orders are available to preserve confidentiality.

2. Tariff Filing Requirements Under 18 CFR Part 346

66. No comments were received objecting to the Commission's proposal to add a new § 346.3 to cost-of-service filing requirements for oil pipelines. Therefore, the Commission is implementing the provisions as noticed in the NOPR.

K. Implementation for Accounting and Reporting Purposes

67. The Commission proposed to implement the rule January 1, 2003, for accounting and reporting purposes for public utilities, licensees, natural gas companies and oil pipeline companies. This is the date jurisdictional entities that file FERC Forms 1, 1–F, 2, 2–A and 6, will measure the transition amounts for the asset retirement obligations.[46] The Commission also proposed that the reporting will be implemented for the FERC Forms 1, 1–F, 2, 2–A and 6 for the reporting year 2003.[47]

Comments Received

68. The majority of the commenters did not object to the Commission's proposed implementation date of January 1, 2003, for accounting and reporting purposes for public utilities, licensees, natural gas companies and oil pipeline companies. Two commenters assert that their fiscal year begins on April 1, 2003, rather than January 1, 2003. The commenters request the Commission clarify this requirement given that their fiscal year does not coincide with the calendar year, which they use for FERC reporting purposes. Both commenters request that the Commission consider allowing them to implement the proposed rule for accounting and reporting purposes on April 1, 2003, rather than the earlier date of January 1, 2003. The commenters assert that this would avoid the issue of retroactively applying the accounting rule to fiscal years prior to January 1, 2003.

69. One commenter recommends that the Commission allow jurisdictional entities to determine the differential in amounts between the two implementation dates, January 1, 2003 and the start of their fiscal year for FERC reporting purposes and footnote the difference in their FERC Annual Report.

Commission Response

70. The Commission is adopting the provisions in the NOPR for implementing the final rule for accounting and reporting purposes on January 1, 2003, except as clarified below for jurisdictional entities whose fiscal year begins after January 1, 2003. Upon considering the comments on this issue, the Commission will permit a jurisdictional entity for whose fiscal year begins after January 1, 2003, to apply the final rule on the first day of their fiscal year rather than on January 1, 2003 for accounting purposes and reporting in the FERC Forms 1, 1–F, 2, 2–A and 6 for the reporting year 2003. In adopting this provision, the Commission will require jurisdictional entities to determine the differential in amounts between the two implementation dates, January 1, 2003 and the jurisdictional entity's first day of their fiscal year of the adoption of the final rule in calendar year 2003 for accounting and FERC reporting purposes and footnote the difference in the FERC Annual Report for the reporting year 2003. Jurisdictional entities with fiscal years will continue to report to the Commission in FERC Annual Reports on a calendar year basis.

IV. FERC Annual Report Forms

71. The Commission proposed changes revising the existing schedules in the FERC Forms 1, 1–F, 2, 2–A, and 6 filed with the Commission. A table summarizing the changes to the various schedules is shown in Appendix B. The Commission also proposed that jurisdictional entities include certain disclosure for asset retirement obligations in the ''Notes to Financial Statements'' in the FERC Forms 1, 1–F, 2, 2–A and 6.[48]

72. No commenters object to the Commission's proposed revisions to the existing schedules in the FERC Annual Report and the proposed disclosure for asset retirement obligations in the ''Notes to Financial Statements'' in FERC Annual Reports. Therefore, the Commission will adopt the provisions as noticed.

V. Regulatory Flexibility Act Certification

73. The Regulatory Flexibility Act (RFA) requires agencies to prepare certain statements, descriptions, and analyses of rules that will have a significant economic impact on a substantial number of small entities.[49] The Commission is not required to make such analyses if a rule would not have such an effect.

74. The Commission does not believe that this rule will have such an impact on small entities. Most filing companies regulated by the Commission do not fall within the RFA's definition of a small entity.[50] Further, the Commission concludes that this reporting would not be a significant burden because the information jurisdictional entities will be required to report to the Commission specifically focuses on the activities of the jurisdictional entities that will be captured in their accounting systems and generally be reported to their shareholders and others at a company, or at a consolidated business level. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

75. However, if the reporting requirements represent an undue burden on small businesses, the entity affected may seek a waiver of the disclosure requirements from the Commission.

VI. Environmental Impact Statement

76. Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[51] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or does not substantially change the effect of legislation or regulation being amended,[52] and also

[45] When an electric utility files for a change in its jurisdictional rates, the Commission requires detailed studies in support of changes in annual depreciation rates if they are different from those supporting the utility's prior approved jurisdictional rate. (18 CFR 35.13(h)(10)(iv)).

[46] On February 20, 2002, the Commission's Chief Accountant issued interim guidance stating that jurisdictional entities may not adopt FAS 143 for financial accounting and reporting to the Commission before Commission action on this matter. *See* All Jurisdictional Public Utilities, Licensees, Natural Gas Companies, and Oil Pipeline Companies, 98 FERC ¶ 62,222 (2002).

[47] The FERC Forms 1–F and 2–A and 6 annual reports for the year 2003 are due on or before March 31, 2004. The FERC Forms 1 and 2 annual reports for the year 2003 are due on or before April 30, 2004.

[48] *See* the instructions to the Notes to Financial Statements schedule for FERC Forms 1, 1–F, 2, 2–A and 6 that requires respondents to report important notes and information related to the financial statements.

[49] 5 U.S.C. 601–612.

[50] 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632. Section 3 of the Small Business Act defines a ''small-business concern'' as a business which is independently owned and operated and which is not dominant in its field of operation.

[51] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs. ¶ 30,783 (1987).

[52] 18 CFR 380.4(a)(2)(ii).

for information gathering, analysis, and dissemination.[53] The rule updates the Parts 35, 101, 154, 201, 346 and 352 of the Commission's regulations, and does not substantially change the effect of the underlying legislation or the regulations being revised or eliminated. In addition, the final rule involves information gathering, analysis and dissemination. Therefore, this final rule falls within categorical exemptions provided in the Commission's regulations. Consequently, neither an environmental impact statement nor an environmental assessment is required.

VII. Information Collection Statement

77. The Office of Management and Budget's (OMB) regulations in 5 CFR 1320.11 require that it approve certain reporting and recordkeeping requirements (collections of information) imposed by an agency. Upon approval of a collection of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of this Rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

78. The final rule will affect the following current data collections: FERC Form(s) 1, 1–F, 2, 2–A and 6, FERC–516 and FERC–545. In accordance with Section 3507(d) of the Paperwork Reduction Act of 1995,[54] the data requirements in the subject rule have been submitted to OMB for review.

Public Reporting Burden: The Commission provided burden estimates in order to implement the proposed requirements. Of the 16 commenters who responded to the NOPR, only one made specific comment concerning the Commission's burden estimates. This one commenter has misconstrued the intent of the rule to impose more time consuming requirements (*e.g.*, group depreciation method) than the final rule actually imposes. The Commission's responses to these comments are being addressed elsewhere in the final rule. The proposed requirements coincide with procedures already established by FAS 143 for companies to recognize a liability at fair value on their financial statements for a retirement obligation when it has occurred. The Commission is merely adjusting these industry standards to coordinate with its Uniform Systems of Accounts.

Data collection	No. of respondents	No. of responses per respondent	Hours per response	Total annual hours
Form 1	216	216	17	3,672
Form 1–F	27	27	8	216
Form 2	57	57	13	741
Form 2–A	53	53	8	424
Form 6	159	159	10	1,590
Totals	512	512		6,643

The total annual hours for these collections is 6,643 hours.

Information Collection Costs: The Commission is projecting only the costs associated with implementing the requirements of this rule.

Annualized Capital/Startup Costs: 6,643 hours ÷ 2,080 hours × $117,041 = $373,800.

Annualized Costs (Operations & Maintenance): It should be noted that the burden and corresponding costs of this final rule are to be implemented by jurisdictional entities to comply with the Commission's Uniform System of Accounts. These entities must already maintain much of this information in order to implement generally accepted accounting principles. The burden and corresponding costs are to account for only where there are differences between the generally accepted accounting principles and the Uniform System of Accounts.

79. FERC Information Collections FERC–516 and FERC–545 are also referenced because jurisdictional entities will be required to provide supporting documentation for the amounts to be collected in their rates when an asset retirement obligation has been recorded. This documentation is no different than jurisdictional entities already prepare in their detailed studies as currently required by the Commission to support changes in annual depreciation rates. The Commission is not requiring additional information as jurisdictional entities already prepare this information when quantifying studies and analyses on the cost of removal of an asset retirement obligation. Therefore, the Commission does anticipate that additional burden will be imposed under these two information collections.

80. The Commission has assured itself, by means of internal review, that there is specific, objective support for the burden estimates associated with the information requirements.

Title: FERC Form 1 ''Annual Report of Major Electric Utilities, Licensees and Others''; FERC Form 1–F ''Annual Report of Nonmajor Public Utilities and Licensees''; FERC Form 2 ''Annual Report of Major Natural Gas Companies''; FERC Form 2–A ''Annual Report of Nonmajor Natural Gas Companies''; FERC Form 6 ''Annual Report of Oil Pipeline Companies''; FERC–516 ''Electric Rate Schedule Filings''; FERC–545 ''Gas Pipeline Rates: Rate Change.''

Action: Proposed data collections.

OMB Control Nos.: 1902–0021; 1902–0029; 1902–0028; 1902–0030; 1902–0022, 1902–0016 and 1902–0154.

Respondents: Public Utilities; Natural Gas Companies; oil pipeline companies (Business or other for profit, including small businesses).

Frequency of the information: Annually.

Necessity of the Information: The final rule amends the Commission's regulations to revise parts 35, 101, 154, 201, 346 and 352 of its regulations. The final rule amends the Commission's Uniform System of Accounts to revise or create definitions, instructions, balance sheet and income statement accounts. The addition of new accounts and changes to FERC Forms will add visibility, completeness and consistency of the accounting and reporting of liabilities for asset retirement obligations and the related asset retirement costs capitalized. The implementation of these requirements will enable the Commission to carry out its responsibilities under the FPA, NGA and ICA to ensure the protection of ratepayers. The Commission is of the view that such requirements are needed because the disclosures of these lack uniformity. For example, jurisdictional

[53] 18 CFR 380.4(a)(5).

[54] 44 U.S.C. 3507(d).

entities subject to the Commission's requirements use different approaches for accounting for retirement costs. Public utilities perform depreciation studies to support changes in their rates for the decommissioning of a nuclear facility as periodic depreciation expense while oil pipeline companies have used depletion rates for abandonment and removal of offshore facilities. The final rule will improve the consistency in the accounting and reporting of legal obligations to retire tangible long-lived assets by requiring entities to recognize at the onset the fair value of the liability. This information will provide a more transparent financial statement disclosure of the costs related to the legal obligation in the FERC Annual Reports.

81. Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 [Attention: Michael Miller, Office of the Executive Director, ED–30, (202) 502–8415, or *michael.miller@ferc.gov*] or by sending comments on the collections of information to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for the Federal Energy Regulatory Commission, 725 17th Street, NW., Washington, DC 20503. The Desk Officer can also be reached at (202) 395–7856, or fax: (202) 395–7285.

VIII. Document Availability

82. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through FERC's Home Page (*http://www.ferc.gov*) and in FERC's Public Reference Room during normal business hours (8:30 a.m., to 5 p.m. Eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

83. From FERC's Home Page on the Internet, this information is available in the Federal Energy Regulatory Records Information System (FERRIS). The full text of this document is available on FERRIS in PDF and WordPerfect format for viewing, printing, and/or downloading. To access this document in FERRIS, type the docket number of this document, excluding the last three digits in the docket number field. User assistance is available for FERRIS and the FERC's Web site during normal business hours from FERC Online Support at *FERCOnLineSupport@FERC.gov* or toll free at (866) 208–3676 or for TTY, contact (202) 502–8659.

IX. Effective Date and Congressional Notification

84. This Final Rule will take effect May 21, 2003. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget, that this rule is not a ''major rule'' within the meaning of section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[55] The Commission will submit the Final Rule to both houses of Congress and the General Accounting Office.[56]

List of Subjects

18 CFR Part 35

Electric power rates, Electric utilities, Electricity, Reporting and recordkeeping requirements.

18 CFR Part 101

Electric power, Electric utilities, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 154

Alaska, Natural gas, Natural gas companies, Pipelines, Rate schedules and tariffs, Reporting and recordkeeping requirements.

18 CFR Part 201

Natural gas, Reporting and recordkeeping requirements, Uniform System of Accounts.

18 CFR Part 346

Pipelines, Reporting and recordkeeping requirements.

18 CFR Part 352

Pipelines, Reporting and recordkeeping requirements, Uniform System of Accounts.

By the Commission.

Magalie R. Salas,

Secretary.

In consideration of the foregoing, the Commission amends parts 35, 101, 154, 201, 346 and 352, Chapter I, Title 18, *Code of Federal Regulations,* as follows.

Regulatory Text

PART 35—FILING OF RATE SCHEDULES

■ 1. The authority citation for part 35 continues to read as follows:

Authority: 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Section 35.18 is added to read as follows:

§ 35.18 Asset retirement obligations.

(a) A public utility that files a rate schedule under § 35.12 or § 35.13 and has recorded an asset retirement obligation on its books must provide a schedule, as part of the supporting work papers, identifying all cost components related to the asset retirement obligations that are included in the book balances of all accounts reflected in the cost of service computation supporting the proposed rates. However, all cost components related to asset retirement obligations that would impact the calculation of rate base, such as electric plant and related accumulated depreciation and accumulated deferred income taxes, may not be reflected in rates and must be removed from the rate base calculation through a single adjustment.

(b) A public utility seeking to recover nonrate base costs related to asset retirement costs in rates must provide, with its filing under § 35.12 or § 35.13, a detailed study supporting the amounts proposed to be collected in rates.

(c) A public utility that has recorded asset retirement obligations on its books, but is not seeking recovery of the asset retirement costs in rates, must remove all asset-retirement-obligations-related cost components from the cost of service supporting its proposed rates.

PART 101—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR PUBLIC UTILITIES AND LICENSEES SUBJECT TO THE PROVISIONS OF THE FEDERAL POWER ACT

■ 3. The authority citation for part 101 continues to read as follows:

Authority: 16 U.S.C. 791a-825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352, 7651–7651o.

■ 4. In Definitions, Definition 10 is revised to read as follows:

Definitions

* * * * *

10. *Cost of removal* means the cost of demolishing, dismantling, tearing down or otherwise removing electric plant, including the cost of transportation and handling incidental thereto. It does not include the cost of removal activities associated with asset retirement obligations that are capitalized as part of the tangible long-lived assets that give rise to the obligation. (*See* General Instruction 25).

* * * * *

[55] 5 U.S.C. 804(2).

[56] 5 U.S.C. 801(a)(1)(A).

■ 5. In General Instructions, Instruction 20, paragraphs C. and D. are redesignated as paragraphs D. and E. and new paragraph C. is added; and a new Instruction 25 is added to read as follows:

General Instructions

* * * * *

20. *Accounting for leases.*

* * * * *

C. The utility, as a lessee, shall recognize an asset retirement obligation (*See* General Instruction 25) arising from the plant under a capital lease unless the obligation is recorded as an asset and liability under a capital lease. The utility shall record the asset retirement cost by debiting account 101.1, Property under capital leases, or account 120.6, Nuclear fuel under capital leases, or account 121, Nonutility property, as appropriate, and crediting the liability for the asset retirement obligation in account 230, Asset retirement obligations. Asset retirement costs recorded in account 101.1, account 120.6, or account 121 shall be amortized by charging rent expense (*See* Operating Expense Instruction 3), or account 518, Nuclear fuel expense (Major only), or account 421, Miscellaneous nonoperating income, as appropriate, and crediting a separate subaccount of the account in which the asset retirement costs are recorded. Charges for the periodic accretion of the liability in account 230, Asset retirement obligations, shall be recorded by a charge to account 411.10, Accretion expense, for electric utility plant, and account 421, Miscellaneous nonoperating income, for nonutility plant and a credit to account 230, Asset retirement obligations.

* * * * *

25. *Accounting for asset retirement obligations.*

A. An *asset retirement obligation* represents a liability for the legal obligation associated with the retirement of a tangible long-lived asset that a company is required to settle as a result of an existing or enacted law, statute, ordinance, or written or oral contract or by legal construction of a contract under the doctrine of promissory estoppel. An *asset retirement cost* represents the amount capitalized when the liability is recognized for the long-lived asset that gives rise to the legal obligation. The amount recognized for the liability and an associated asset retirement cost shall be stated at the fair value of the asset retirement obligation in the period in which the obligation is incurred.

B. The utility shall initially record a liability for an asset retirement obligation in account 230, Asset retirement obligations, and charge the associated asset retirement costs to electric utility plant (including accounts 101.1 and 120.6), and nonutility plant, as appropriate, related to the plant that gives rise to the legal obligation. The asset retirement cost shall be depreciated over the useful life of the related asset that gives rise to the obligations. For periods subsequent to the initial recording of the asset retirement obligation, a utility shall recognize the period to period changes of the asset retirement obligation that result from the passage of time due to the accretion of the liability and any subsequent measurement changes to the initial liability for the legal obligation recorded in account 230, Asset retirement obligations, as follows:

(1) The utility shall record the accretion of the liability by debiting account 411.10, Accretion expense, for electric utility plant, account 413, Expenses of electric plant leased to others, for electric plant leased to others, and account 421, Miscellaneous nonoperating income, for nonutility plant and crediting account 230, Asset retirement obligations; and

(2) The utility shall recognize any subsequent measurement changes of the liability initially recorded in account 230, Asset retirement obligations, for each specific asset retirement obligation as an adjustment of that liability in account 230 with the corresponding adjustment to electric utility plant, electric plant leased to others, and nonutility plant, as appropriate. The utility shall on a timely basis monitor any measurement changes of the asset retirement obligations.

C. Gains or losses resulting from the settlement of asset retirement obligations associated with utility plant resulting from the difference between the amount of the liability for the asset retirement obligation included in account 230, Asset retirement obligations, and the actual amount paid to settle the obligation shall be accounted for as follows:

(1) Gains shall be credited to account 411.6, Gains from disposition of utility plant, and;

(2) Losses shall be charged to account 411.7, Losses from disposition of utility plant.

D. Gains or losses on the settlement of asset retirement obligations associated with nonutility plant resulting from the difference between the amount of the liability for the asset retirement obligation in account 230, Asset retirement obligations, and the amount paid to settle the obligation, shall be accounted for as follows:

(1) Gains shall be credited to account 421, Miscellaneous nonoperating income, and;

(2) Losses shall be charged to account 426.5, Other deductions.

E. Separate subsidiary records shall be maintained for each asset retirement obligation showing the initial liability and associated asset retirement cost, any incremental amounts of the liability incurred in subsequent reporting periods for additional layers of the original liability and related asset retirement cost, the accretion of the liability, the subsequent measurement changes to the asset retirement obligation, the depreciation and amortization of the asset retirement costs and related accumulated depreciation, and the settlement date and actual amount paid to settle the obligation. For purposes of analyses a utility shall maintain supporting documentation so as to be able to furnish accurately and expeditiously with respect to each asset retirement obligation the full details of the identity and nature of the legal obligation, the year incurred, the identity of the plant giving rise to the obligation, the full particulars relating to each component and supporting computations related to the measurement of the asset retirement obligation.

* * * * *

■ 6. In Electric Plant Instructions, paragraph 3.A.(17)(a) the W element is revised; and a new paragraph 3.A.(21) is added to read as follows:

Electric Plant Instructions

* * * * *

3. *Components of construction cost.*

A. * * *

(17) * * *

(a) * * *

W = Average balance in construction work in progress plus nuclear fuel in process of refinement, conversion, enrichment and fabrication, less asset retirement costs (See General Instruction 25) related to plant under construction.

* * * * *

(21) *Asset retirement costs.* The costs recognized as a result of asset retirement obligations incurred during the construction and testing of utility plant shall constitute a component of construction costs.

* * * * *

■ 7. Balance Sheet Accounts are amended as follows:

■ (a) Account 101.1 is amended by adding a sentence to the end of paragraph C.;

■ (b) Account 103 paragraph C. is revised;

■ (c) Account 108 paragraph A.(2) through A.(7) are redesignated as paragraphs A.(3) through A.(8), a new paragraph A.(2) is added, and paragraph C. is amended by adding a sentence to the end of the paragraph;
■ (d) Account 110 paragraph A.(2) through A.(4) are redesignated as paragraphs A.(3) through A.(5), a new paragraph A.(2) is added, and paragraph C. is amended by adding a sentence to the end of the paragraph;
■ (e) Account 121, paragraph A. is amended by adding a sentence to the end of the paragraph; and
■ (f) Account 230 is added.

The revision and additions read as follows:

Balance Sheet Accounts

* * * * *

101.1 Property under capital leases.

* * * * *

C. * * * Records shall also be maintained for plant under a lease, to identify the asset retirement obligation and cost originally recognized for each lease and the periodic charges and credits made to the asset retirement obligations and asset retirement costs.

* * * * *

103 Experimental electric plant unclassified (Major only).

* * * * *

C. The depreciation on plant in this account shall be charged to account 403, Depreciation expense, and account 403.1, Depreciation expense for asset retirement costs, as appropriate, and credited to account 108, Accumulated provision for depreciation of electric utility plant (Major only). The amounts herein shall be depreciated over a period which corresponds to the estimated useful life of the relevant project considering the characteristics involved. However, when projects are transferred to account 101, Electric plant in service, a new depreciation rate based on the remaining service life and undepreciated amounts, will be established.

* * * * *

108 Accumulated provision for depreciation of electric utility plant (Major only).

A. * * *

(2) Amounts charged to account 403.1, Depreciation expense for asset retirement costs, for current depreciation expense related to asset retirement costs in electric plant in service in a separate subaccount.

* * * * *

C. * * * Separate subsidiary records shall be maintained for the amount of accrued cost of removal other than legal obligations for the retirement of plant recorded in account 108, Accumulated provision for depreciation of electric utility plant (Major only).

* * * * *

110 Accumulated provision for depreciation and amortization of electric utility plant (Nonmajor only).

A. * * *

(2) Amounts charged to account 403.1, Depreciation expense for asset retirement costs, in electric utility plant in service in a separate subaccount.

* * * * *

C. * * * Separate subsidiary records shall be maintained for the amount of accrued cost of removal other than legal obligations for the retirement of plant recorded in account 110, Accumulated provision for depreciation of electric utility plant (Nonmajor only).

* * * * *

121 Nonutility property.

A. * * * This account shall also include, where applicable, amounts recorded for asset retirement costs associated with nonutility plant.

* * * * *

230 Asset retirement obligations.

A. This account shall include the amount of liabilities for the recognition of asset retirement obligations related to electric utility plant and nonutility plant that gives rise to the obligations. This account shall be credited for the amount of the liabilities for asset retirement obligations with amounts charged to the appropriate electric utility plant accounts or nonutility plant account to record the related asset retirement costs.

B. The utility shall charge the accretion expense to account 411.10, Accretion expense, for electric utility plant, account 413, Expenses of electric plant leased to others, for electric plant leased to others, or account 421, Miscellaneous nonoperating income, for nonutility plant, as appropriate, and credit account 230, Asset retirement obligations.

C. This account shall be debited with amounts paid to settle the asset retirement obligations recorded herein.

D. The utility shall clear from this account any gains or losses resulting from the settlement of asset retirement obligations in accordance with the instructions prescribed in General Instruction 25.

* * * * *

■ 8. In Electric Plant Accounts, new primary plant accounts, 317, 326, 337, 347, 359.1, 374, and 399.1 are added to read as follows:

Electric Plant Accounts

* * * * *

317 Asset retirement costs for steam production plant.

This account shall include asset retirement costs on plant included in the steam production function.

* * * * *

326 Asset retirement costs for nuclear production plant (Major only).

This account shall include asset retirement costs on plant included in the nuclear production function.

* * * * *

337 Asset retirement costs for hydraulic production plant.

This account shall include asset retirement costs on plant included in the hydraulic production function.

* * * * *

347 Asset retirement costs for other production plant.

This account shall include asset retirement costs on plant included in the other production function.

* * * * *

359.1 Asset retirement costs for transmission plant.

This account shall include asset retirement costs on plant included in the transmission plant function.

* * * * *

374 Asset retirement costs for distribution plant.

This account shall include asset retirement costs on plant included in the distribution plant function.

* * * * *

399.1 Asset retirement costs for general plant.

This account shall include asset retirement costs on plant included in the general plant function.

* * * * *

■ 9. Amend Income Accounts as follows:
■ a. Account 403.1 is added,
■ b. Accounts 411.6 and 411.7 are amended by designating the current paragraph as A., and adding a new paragraph B.,
■ c. Account 411.10 is added,
■ d. In account 421, paragraphs 4. through 6. are added, and
■ e. In account 426.5 paragraph 6 is added.

The additions read as follows:

Income Accounts

* * * * *

403.1 Depreciation expense for asset retirement costs.

This account shall include the depreciation expense for asset retirement costs included in electric utility plant in service.

* * * * *

411.6 Gains from disposition of utility property.

A. * * *

B. The utility shall record in this account gains resulting from the settlement of asset retirement obligations related to utility plant in accordance with the accounting prescribed in General Instruction 25.

* * * * *

411.7 Losses from disposition of utility property.

A. * * *

B. The utility shall record in this account losses resulting from the settlement of asset retirement obligations related to utility plant in accordance with the accounting prescribed in General Instruction 25.

* * * * *

411.10 Accretion expense.

This account shall be charged for accretion expense on the liabilities associated with asset retirement obligations included in account 230, Asset retirement obligations, related to electric utility plant.

* * * * *

421 Miscellaneous nonoperating income.

* * * * *

4. This account shall include the accretion expense on the liability for an asset retirement obligation included in account 230, Asset retirement obligations, related to nonutility plant.

5. This account shall include the depreciation expense for asset retirement costs related to nonutility plant.

6. The utility shall record in this account gains resulting from the settlement of asset retirement obligations related to nonutility plant in accordance with the accounting prescribed in General Instruction 25.

* * * * *

426.5 Other deductions.

* * * * *

6. The utility shall record in this account losses resulting from the settlement of asset retirement obligations related to nonutility plant in accordance with the accounting prescribed in General Instruction 25.

* * * * *

PART 154—RATE SCHEDULES AND TARIFFS

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

Authority: 15 U.S.C. 717–717w; 31 U.S.C. 9701; 42 U.S.C. 7102–7352.

■ 11. In § 154.312 paragraph (d), introductory text, is amended by removing the sentence ''Any authorized negative salvage must be maintained in a separate subaccount of account 108,'' and adding in its place the following sentence to read as follows:

§ 154.312 Composition of Statements.

* * * * *

(d)* * * Any authorized negative salvage must be maintained in a separate subaccount of account 108, and shall not include any amounts related to asset retirement obligations. * * *

* * * * *

■ 12. Section 154.315 is added to subpart D to read as follows:

§ 154.315 Asset retirement obligations.

(a) A natural gas company that files a tariff change under this part and has recorded an asset retirement obligation on its books must provide a schedule, as part of the supporting workpapers, identifying all cost components related to the asset retirement obligations that are included in the book balances of all accounts reflected in the cost of service computation supporting the proposed rates. However, all cost components related to asset retirement obligations that would impact the calculation of rate base, such as gas plant and related accumulated depreciation and accumulated deferred income taxes, may not be reflected in rates and must be removed from the rate base calculation through a single adjustment.

(b) A natural gas company seeking to recover nonrate base costs related to asset retirement obligations in rates must provide, with its filing under § 154.312 or § 154.313, a detailed study supporting the amounts proposed to be collected in rates.

(c) A natural gas company who has recorded asset retirement obligations on its books but is not seeking recovery of the asset retirement costs in rates, must remove all asset retirement obligations related cost components from the cost of service supporting its proposed rates.

PART 201—UNIFORM SYSTEM OF ACCOUNTS PRESCRIBED FOR NATURAL GAS COMPANIES SUBJECT TO THE PROVISIONS OF THE NATURAL GAS ACT

■ 13. The authority citation for part 201 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352, 7651–7651o.

■ 14. In Definitions, Definition 10 is revised to read as follows:

Definitions

* * * * *

10. *Cost of removal* means the cost of demolishing, dismantling, tearing down or otherwise removing gas plant, including the cost of transportation and handling incidental thereto. It does not include the cost of removal activities associated with asset retirement obligations that are capitalized as part of the tangible long-lived assets that give rise to the obligation. (See General Instruction 24).

* * * * *

■ 15. In General Instructions, Instruction 20 paragraphs C. and D. are redesignated as paragraphs D. and E. and a new paragraph C. is added; and a new Instruction 24 is added to read as follows:

General Instructions

* * * * *

20. *Accounting for leases.*

* * * * *

C. The utility, as a lessee, shall recognize an asset retirement obligation (See General Instruction 24) arising from the plant under a capital lease unless the obligation is recorded as an asset and liability under a capital lease. The utility shall record the asset retirement cost by debiting account 101.1, Property under capital leases, or account 121, Nonutility property, as appropriate, and crediting the liability for the asset retirement obligation in account 230, Asset retirement obligations. Asset retirement costs recorded in account 101.1 or account 121 shall be amortized by charging rent expense (See Operating Expense Instruction 3) or account 421, Miscellaneous nonoperating income, as appropriate, and crediting a separate subaccount of the account in which the asset retirement costs are recorded. Charges for the periodic accretion of the liability in account 230, Asset retirement obligations, shall be recorded by a charge to account 411.10, Accretion expense, for gas utility plant, and account 421, Miscellaneous nonoperating income, for nonutility plant and a credit to account 230, Asset retirement obligations.

* * * * *

24. *Accounting for asset retirement obligations.*

A. An *asset retirement obligation* represents a liability for the legal obligation associated with the retirement of a tangible long-lived asset that a utility is required to settle as a result of an existing or enacted law,

statute, ordinance, or written or oral contract or by legal construction of a contract under the doctrine of promissory estoppel. An *asset retirement cost* represents the amount capitalized when the liability is recognized for the long-lived asset that gives rise to the legal obligation. The amount recognized for the liability and an associated asset retirement cost shall be stated at the fair value of the asset retirement obligation in the period in which the obligation is incurred.

B. The utility shall initially record a liability for an asset retirement obligation in account 230, Asset retirement obligations, and charge the associated asset retirement costs to gas utility plant and nonutility plant, as appropriate, related to the plant that gives rise to the legal obligation. The asset retirement cost shall be depreciated over the useful life of the related asset that gives rise to the obligations. For periods subsequent to the initial recording of the asset retirement obligation, a utility shall recognize the period to period changes of the asset retirement obligation that result from the passage of time due to the accretion of the liability and any subsequent measurement changes to the initial liability for the legal obligation recorded in account 230, Asset retirement obligations, as follows:

(1) The utility shall record the accretion of the liability by debiting account 411.10, Accretion expense, for gas utility plant, account 413, Expenses of gas plant leased to others, for gas plants leased to others, and account 421, Miscellaneous nonoperating income, for nonutility plant and crediting account 230, Asset retirement obligations; and

(2) The utility shall recognize any subsequent measurement changes of the liability initially recorded in account 230, Asset retirement obligations, for each specific asset retirement obligation as an adjustment of that liability in account 230 with the corresponding adjustment to gas utility plant, gas plant leased to others, and nonutility plant, as appropriate. The utility shall on a timely basis monitor any measurement changes of the asset retirement obligations.

C. Gains or losses resulting from the settlement of asset retirement obligations associated with utility plant resulting from the difference between the amount of the liability for the asset retirement obligation included in account 230, Asset retirement obligations, and the actual amount paid to settle the obligation shall be accounted for as follows:

(1) Gains shall be credited to account 411.6, Gains from disposition of utility plant, and;

(2) Losses shall be charged to account 411.7, Losses from disposition of utility plant.

D. Gains or losses on the settlement of the asset retirement obligations associated with nonutility plant resulting from the difference between the amount of the liability for the asset retirement obligation in account 230, Asset retirement obligations, and the amount paid to settle the obligation, shall be accounted for as follows:

(1) Gains shall be credited to account 421, Miscellaneous nonoperating income, and;

(2) Losses shall be charged to account 426.5, Other deductions.

E. Separate subsidiary records shall be maintained for each asset retirement obligation showing the initial liability and associated asset retirement cost, any incremental amounts of the liability incurred in subsequent reporting periods for additional layers of the original liability and related asset retirement cost, the accretion of the liability, the subsequent measurement changes to the asset retirement obligation, the depreciation and amortization of the asset retirement costs and related accumulated depreciation, and the settlement date and actual amount paid to settle the obligation. For purposes of analyses a utility shall maintain supporting documentation so as to be able to furnish accurately and expeditiously with respect to each asset retirement obligation the full details of the identity and nature of the legal obligation, the year incurred, the identity of the plant giving rise to the obligation, the full particulars relating to each component and supporting computations related to the measurement of the asset retirement obligation.

* * * * *

■ 16. In Gas Plant Instructions, paragraph 3.A.(17)(a) the W element is revised; and new paragraph 3.A.(23) is added to read as follows:

Gas Plant Instructions

* * * * *

3. *Components of construction cost.*

A. * * *

(17) * * *

(a) * * *

W = Average balance in construction work in progress less asset retirement costs (See General Instruction 24) related to plant under construction.

* * * * *

(23) ''Asset retirement costs.'' The costs recognized as a result of asset retirement obligations incurred during the construction and testing of utility plant shall constitute a component of construction costs.

* * * * *

■ 17. Balance Sheet Accounts are amended as follows:

■ (a) Account 101.1, is amended by adding a sentence to the end of paragraph C.;

■ (b) Account 103, paragraph C. is revised;

■ (c) Account 108, paragraphs A.(2) through A.(7) are redesignated as paragraphs A.(3) through A.(8), a new paragraph A.(2) is added, and paragraph C. is amended by adding a sentence to the end of the paragraph;

■ (d) Account 121, paragraph A. is amended by adding a sentence to the end of the paragraph; and

■ (e) Account 230 is added.

The additions and revisions read as follows:

Balance Sheet Accounts

* * * * *

101.1 Property under capital leases.

* * * * *

C. * * * Records shall also be maintained for plant under a lease, to identify the asset retirement obligation and cost originally recognized for each lease and the periodic charges and credits made to the asset retirement obligations and asset retirement costs.

* * * * *

103 Experimental gas plant unclassified.

* * * * *

C. The depreciation on plant in this account shall be charged to account 403, Depreciation expense, and account 403.1, Depreciation expense for asset retirement costs, as appropriate, and credited to account 108, Accumulated provision for depreciation of gas utility plant. The amounts herein shall be depreciated over a period which corresponds to the estimated useful life of the relevant project considering the characteristics involved. However, when projects are transferred to account 101, Gas plant in service, a new depreciation rate based on the remaining service life and undepreciated amounts, will be established.

* * * * *

108 Accumulated provision for depreciation of gas utility plant.

A. * * *

(2) Amounts charged to account 403.1, Depreciation expense for asset retirement costs, for current

depreciation expense related to asset retirement costs in gas plant in service in a separate subaccount.

* * * * *

C. * * * Separate subsidiary records shall be maintained for the amount of accrued cost of removal other than legal obligations for the retirement of plant recorded in account 108, Accumulated provision for depreciation of gas utility plant.

* * * * *

121 Nonutility property.

A. * * * This account shall also include, where applicable, amounts recorded for asset retirement costs associated with nonutility plant.

* * * * *

230 Asset retirement obligations.

A. This account shall include the amount of liabilities for the recognition of asset retirement obligations related to gas utility plant and nonutility plant that gives rise to the obligations. This account shall be credited for the amount of the liabilities for asset retirement obligations with amounts charged to the appropriate gas utility plant accounts or nonutility plant accounts to record the related asset retirement costs.

B. This account shall also include the period to period changes for the accretion of the liabilities in account 230, Asset retirement obligations. The utility shall charge the accretion expense to account 411.10, Accretion expense, for gas utility plant, account 413, Expenses of gas plant leased to others, for gas plant leased to others, or account 421, Miscellaneous nonoperating income, for nonutility plant, as appropriate, and credit account 230, Asset retirement obligations.

C. This account shall be debited with amounts paid to settle the asset retirement obligations recorded herein.

D. The utility shall clear from this account any gains or losses resulting from the settlement of asset retirement obligations in accordance with the instructions prescribed in General Instruction 24.

* * * * *

■ 18. In Gas Plant Accounts, new primary plant accounts, 321, 339, 348, 358, 363.6, 372, 388, and 399.1 are added to read as follows:

Gas Plant Accounts

* * * * *

321 Asset retirement costs for manufactured gas production plant.

This account shall include asset retirement costs on plant included in the manufactured gas production plant function.

* * * * *

339 Asset retirement costs for natural gas production and gathering plant.

This account shall include asset retirement costs on plant included in the natural gas production and gathering plant function.

* * * * *

348 Asset retirement costs for products extraction plant.

This account shall include asset retirement costs on plant included in the products extraction plant function.

* * * * *

358 Asset retirement costs for underground storage plant.

This account shall include asset retirement costs on plant included in the underground storage plant function.

* * * * *

363.6 Asset retirement costs for other storage plant.

This account shall include asset retirement costs on plant included in the other storage plant function.

* * * * *

372 Asset retirement costs for transmission plant.

This account shall include asset retirement costs on plant included in the transmission plant function.

* * * * *

388 Asset retirement costs for distribution plant.

This account shall include asset retirement costs on plant included in the distribution plant function.

* * * * *

399.1 Asset retirement costs for general plant.

This account shall include asset retirement costs on plant included in the general plant function.

* * * * *

■ 19. Income Accounts are amended as follows:

■ a. Account 403.1 is added,

■ b. Accounts 411.6 and 411.7 are amended by designating the current paragraph as A. and adding a new paragraph B.,

■ c. Account 411.10 is added,

■ d. In Account 421, paragraphs 4. through 6. are added, and

■ e. In Account 426.5 paragraph 6. is added.

The additions read as follows:

Income Accounts

* * * * *

403.1 Depreciation expense for asset retirement costs.

This account shall include the depreciation expense for asset retirement costs included in gas utility plant in service.

* * * * *

411.6 Gains from disposition of utility property.

A. * * *

B. The utility shall record in this account gains resulting from the settlement of asset retirement obligations related to utility plant in accordance with the accounting prescribed in General Instruction 24.

* * * * *

411.7 Losses from disposition of utility property.

A. * * *

B. The utility shall record in this account losses resulting from the settlement of asset retirement obligations related to utility plant in accordance with the accounting prescribed in General Instruction 24.

* * * * *

411.10 Accretion expense.

This account shall be charged for accretion expense on the liabilities associated with asset retirement obligations included in account 230, Asset retirement obligations, related to gas utility plant.

* * * * *

421 Miscellaneous nonoperating income.

* * * * *

4. This account shall include the accretion expense on the liability for an asset retirement obligation included in account 230, Asset retirement obligations, related to nonutility plant.

5. This account shall include the depreciation expense for asset retirement costs related to nonutility plant.

6. The utility shall record in this account gains resulting from the settlement of asset retirement obligations related to nonutility plant in accordance with the accounting prescribed in General Instruction 24.

* * * * *

426.5 Other deductions.

* * * * *

6. The utility shall record in this account losses resulting from the settlement of asset retirement obligations related to nonutility plant in

accordance with the accounting prescribed in General Instruction 24.

* * * * *

PART 346–OIL PIPELINE COST-OF-SERVICE FILING REQUIREMENTS

■ 20. The authority citation for part 346 continues to read as follows:

Authority: 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

■ 21. Section 346.3 is added to read as follows:

§ 346.3 Asset retirement obligations.

(a) A carrier that files material in support of initial rates or change in rates under § 346.2 and has recorded asset retirement obligations on its books must provide a schedule, as part of the supporting workpapers, identifying all cost components related to the asset retirement obligations that are included in the book balances of all accounts reflected in the cost of service computation supporting the proposed rates. However, all cost components related to asset retirement obligations that would impact the calculation of rate base, such as carrier property and related accumulated depreciation and accumulated deferred income taxes, may not be reflected in rates and must be removed from the rate base calculation through a single adjustment.

(b) A carrier seeking to recover nonrate base costs related to asset retirement costs in rates must provide, with its filing under § 346.2 of this part, a detailed study supporting the amounts proposed to be collected in rates.

(c) A carrier who has recorded asset retirement obligations on its books but is not seeking recovery of the asset retirement costs in rates, must remove all asset retirement obligations related cost components from the cost of service supporting its proposed rates.

PART 352—UNIFORM SYSTEMS OF ACCOUNTS PRESCRIBED FOR OIL PIPELINE COMPANIES SUBJECT TO THE PROVISIONS OF THE INTERSTATE COMMERCE ACT

■ 22. The authority citation for part 352 continues to read as follows:

Authority: 49 U.S.C. 60502; 49 App. U.S.C. 1–85 (1988).

■ 23. In List of Instructions and Accounts, under Definitions, Definition 12 is revised to read as follows:

Definitions. * * *

12. *Cost of removal* means cost of demolishing, dismantling, tearing down, or otherwise removing property including costs of handling and transportation. It does not include the cost of removal activities associated with asset retirement obligations that are capitalized as part of the tangible long-lived assets that give rise to the obligation. (*See* General Instruction 1–19).

* * * * *

■ 24. In General Instructions, paragraph 1–19 is added to read as follows:

General Instructions

* * * * *

1–19 *Accounting for asset retirement obligations.*

(a) An *asset retirement obligation* represents a liability for the legal obligation associated with the retirement of a tangible long-lived asset that a utility is required to settle as a result of an existing or enacted law, statute, ordinance, or written or oral contract or by legal construction of a contract under the doctrine of promissory estoppel. An *asset retirement cost* represents the amount capitalized when the liability is recognized for the long-lived asset that gives rise to the legal obligation. The amount recognized for the liability and an associated asset retirement cost shall be stated at the fair value of the asset retirement obligation in the period in which the obligation is incurred.

(b) The carrier shall initially record a liability for an asset retirement obligation in account 67, Asset retirement obligations, and charge the associated asset retirement costs to account 30, Carrier property, and account 34, Noncarrier property, as appropriate, related to the property that gives rise to the legal obligation. The asset retirement cost shall be depreciated over the useful life of the related asset that gives rise to the obligations. For periods subsequent to the initial recording of the asset retirement obligation, a carrier shall recognize the period to period changes of the asset retirement obligation that result from the passage of time due to the accretion of the liability and any subsequent measurement revisions to the initial liability for the legal obligation recorded in account 67, Asset retirement obligations, as follows:

(1) The carrier shall record the accretion of the liability by debiting account 591, Accretion expense, for carrier property, account 620, Income (net) from noncarrier property, for noncarrier property and crediting account 67, Asset retirement obligations; and

(2) The carrier shall recognize any subsequent measurement changes of the liability initially recorded in account 67, Asset retirement obligations, for each specific asset retirement obligation as an adjustment of that liability in account 67 with the corresponding adjustment to carrier property and noncarrier property accounts, as appropriate. The utility shall on a timely basis monitor any measurement changes of the asset retirement obligations.

(c) Gains or losses resulting from the final settlement of asset retirement obligations for carrier plant resulting from the difference between the amount of the liability for the asset retirement obligation in account 67, Asset retirement obligations, and the actual amount to settle the obligation, shall be recorded in account 592, Gains or losses on asset retirement obligations.

(d) Gains or losses resulting from the final settlement of asset retirement obligations for noncarrier plant resulting from the difference between the amount of the liability for the asset retirement obligation in account 67, Asset retirement obligations, and the actual amount to settle the obligation, shall be recorded in account 620, Income (net) from noncarrier property.

(e) Separate subsidiary records shall be maintained for each asset retirement obligation showing the initial liability and associated asset retirement cost, any incremental amounts of the liability incurred in subsequent reporting periods for additional layers of the original liability and related asset retirement cost, the accretion of the liability, the subsequent measurement changes to the asset retirement obligation, the depreciation and amortization of the asset retirement costs and related accumulated depreciation, and the settlement date and actual amount paid to settle the obligation. For purposes of analyses a carrier shall maintain supporting documentation so as to be able to furnish accurately and expeditiously with respect to each asset retirement obligation the full details of the identity and nature of the legal obligation, the year incurred, the identity of the plant giving rise to the obligation, the full particulars relating to each component and supporting computations related to the measurement of the asset retirement obligation.

* * * * *

■ 25. In Instructions for Carrier Property Accounts, Instruction 3–3, paragraph (11)(iii) and paragraph (13) are added to read as follows:

Instructions for Carrier Property Accounts

* * * * *

3–3 *Cost of property constructed.*

* * *

(11) * * *

(iii) Interest during construction shall not be recognized on the asset retirement costs incurred during the construction of carrier and noncarrier property.

* * * * *

(13) Asset retirement costs that are recognized as a result of asset retirement obligations incurred during construction shall be included in the cost of construction costs.

* * * * *

■ 26. In Balance Sheet Accounts, account 31 is amended by adding a sentence to the end of paragraph, account 34 is amended by adding a sentence to the end of paragraph and account 67 is added to read as follows:

Balance Sheet Accounts

* * * * *

31 * * * Separate subsidiary records shall be maintained for the amount of accrued cost of removal other than legal obligations for the retirement of property recorded in account 31, Accrued depreciation—Carrier property.

* * * * *

34 * * * This account shall also include, amounts recorded for asset retirement costs associated with noncarrier property.

* * * * *

67 Asset retirement obligations.

(a) This account shall include liabilities arising from the recognition of asset retirement obligations. The carrier shall credit account 67, Asset retirement obligations, for the liabilities for asset retirement obligations and charge the appropriate carrier property accounts or noncarrier property accounts to record the related asset retirement costs.

(b) This account shall also include the period to period changes for the accretion of the liabilities in account 67, Asset retirement obligations. The carrier shall charge the accretion expense to account 591, Accretion expense, for carrier property, and account 620, Income (net) from noncarrier property, for noncarrier property, as appropriate, and credit account 67, Asset retirement obligations.

(c) This account shall be debited with amounts paid to settle the asset retirement obligations recorded herein.

(d) The utility shall clear from this account any gains or losses resulting from the settlement of asset retirement obligations in accordance with the instructions prescribed in General Instruction 1–19.

* * * * *

■ 27. In Carrier Property Accounts, accounts 117, 167, and 186.1 are added to read as follows:

Carrier Property Accounts

* * * * *

117, 167, 186.1 *Asset retirement costs.*

This account shall include asset retirement costs on plans included in carrier property.

* * * * *

■ 28. In Operating Expenses, accounts 541, 591 and 592 are added to read as follows:

Operating Expenses

* * * * *

541 Depreciation expense for asset retirement costs.

This account shall include charges for the depreciation of asset retirement costs related to transportation property.

* * * * *

591 Accretion expense.

This account shall be charged for accretion expense on the liabilities associated with asset retirement obligations included in account 67, Asset retirement obligations. The carrier shall record in this account the settlement amounts for asset retirement obligations related to carrier property in accordance with the accounting prescribed in General Instruction 1–19.

592 Gains or losses on asset retirement obligations.

The carrier shall record in this account gains or losses resulting from the settlement amounts for asset retirement obligations related to carrier property plant. (*See* General Instruction 1–19).

* * * * *

Note: The following appendices will not be published in the Code of Federal Regulations.

APPENDIX A

LIST OF COMMENTERS

Respondent	Abbreviation
1. Arkansas Public Service Commission.	Arkansas PSC.
2. Don Bjerke	Bjerke.
3. Deloitte & Touche LLP.	Deloitte & Touche.
4. Edison Electric Institute.	EEI.
5. FirstEnergy Corp. ..	FirstEnergy.
6. John S. Ferguson	Ferguson.
7. K. C. Martin	K.C. Martin.
8. Missouri Public Service Commission.	MoPSC.
9. National Association of State Utility Consumer Advocates.	NASUCA.
10. National Grid USA.	National Grid.
11. National Rural Electric Cooperative Assn..	NRECA.
12. Northern Natural Gas Company.	Northern Natural.
13. PacifiCorp	PacifiCorp.
14. Progress Energy, Inc..	Progress Energy.
15. Rural Utilities Service.	RUS.
16. Southern Company.	Southern.

Appendix B

SUMMARY OF CHANGES TO SCHEDULES FOR FORMS 1, 1–F, 2, 2–A AND 6

Schedule title	Forms 1 and 1–F public utilities and licensees	Forms 2 and 2A natural gas companies	Form 6 oil pipeline companies
1 List of Schedules	Revise to show schedule changes.	Same as Public Utilities and Licensees.	Same as Public Utilities and Licensees.
2 Comparative Balance Sheet	Add new account 230 to report asset retirement obligations.	Same as Public Utilities and Licensees.	Add account 67 to report asset retirement obligations.
3 Statement of Income for the Year	Add new accounts 403.1, to report depreciation expense and 411.10, to report accretion expense.	Same as Public Utilities and Licensees.	Add accounts 541, to report depreciation expense, 591, to report accretion expense, and 592, to report gains or losses on asset retirement obligations.

SUMMARY OF CHANGES TO SCHEDULES FOR FORMS 1, 1–F, 2, 2–A AND 6—Continued

Schedule title	Forms 1 and 1–F public utilities and licensees	Forms 2 and 2A natural gas companies	Form 6 oil pipeline companies
4 Plant in Service	Add new Instruction 4. For revisions to the amount of initial asset retirement costs capitalized, included by primary plant account, increases in column (c) addition and reductions in column (e) adjustments.	Same as Public Utilities and Licensees.	N/A
	Add new primary asset retirement accounts, 317, 326, 337, 347, 359.1, 374 and 399.1, for each plant function.	Add new primary asset retirement accounts, 339, 348, 358, 363.6, 364.9, 372, 388, 399.1, for each plant function.	N/A
5 Undivided Joint Interest Property	N/A	N/A	Add new primary asset retirement accounts, 117, 167, and 186.1, for each carrier property account function.
6 Accumulated Provision for Depreciation of Utility Plant	Added lines to report ''403.1 Depreciation Expense for Asset Retirement Costs'' and ''Book Cost of Asset Retirement Costs Retired.''	Same as Public Utilities and Licensees.	N/A
7 Accrued Depreciation—Carrier Property	N/A	N/A	Add new primary asset retirement accounts, 117, 167, and 186.1, for each carrier property account function and revise column (c) to read Debits to Accounts 540 and 541 of USofA (in dollars).
8 Accrued Depreciation—Undivided Joint Interest Property	N/A	N/A	Same as above for Accrued Depreciation—Carrier Property.
9 Depreciation and Amortization of Plant (Except Amortization of Acquisition Adjustments)	Add new Column (c), Depreciation Expense for Asset Retirement Costs (403.1).	Same as Public Utilities and Licenses. Form 2–A N/A	N/A
10 Amortization Base and Reserve	N/A	N/A	Revise header over columns (b), (c), (d) and (e) to read (Base 540 and 541).
11 Steam-Electric Generating Plant Statistics (Large Plants)	Form 1—Revise to report Asset Retirement Costs. Form 1–F N/A	N/A	N/A
12 Hydroelectric Generating Plant Statistics (Large Plants)	Form 1—Revise to report Asset Retirement Costs. Form 1–F N/A	N/A	N/A
13 Pumped Storage Generating Plant Statistics (Large Plants)	Form 1—Revise to report Asset Retirement Costs. Form 1–F N/A	N/A	N/A
14 Generating Plant Statistics (Small Plants) (Continued)	Form 1—Revise Column (g), to read ''Plant Cost (Including Asset Retirement Costs) Per MW Installed Capacity.'' Form 1–F N/A	N/A	N/A
15 Transmission Lines Added During the Year	Form 1—Add column (o) ''Asset Retirement Costs'' to report asset retirement costs as part of line cost. Form 1–F N/A	N/A	N/A

BILLING CODE 6717–01–P

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

LIST OF SCHEDULES (Electric Utility)

Enter in column (d) the terms "none," "not applicable," or "NA," as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the respondents are "none," "not applicable," or "NA".

Title of Schedule (a)	Reference Page No. (b)	Date Revised (c)	Remarks (d)
GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
General Information	101	Ed. 12-87	
Control Over Respondent	102	Ed. 12-96	
Corporations Controlled by Respondent	103	Ed. 12-96	
Officers	104	Ed. 12-96	
Directors	105	Ed. 12-95	
Security Holders and Voting Powers	106-107	Ed. 12-96	
Important Changes During the Year	108-109	Ed. 12-96	
Comparative Balance Sheet	110-113	Rev. 12-02	
Statement of Income for the Year	114-117	Rev. 12-02	
Statement of Retained Earnings for the Year	118-119	Ed. 12-96	
Statement of Cash Flows	120-121	Ed. 12-96	
Statement of Accumulated Comprehensive Income and Hedging Activities	122 (a) (b)	New 12-02	
Notes to Financial Statements	123	Ed. 12-02	
BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debits)			
Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization, and Depletion	200-201	Ed. 12-89	
Nuclear Fuel Materials	202-203	Ed. 12-89	
Electric Plant in Service	204-207	Rev. 12-02	
Electric Plant Leased to Others	213	Rev. 12-95	
Electric Plant Held for Future Use	214	Ed. 12-89	
Construction work in Progress -- Electric	216	Ed. 12-87	
Construction Overheads -- Electric	217	Ed. 12-89	
General Description of Construction Overhead Procedure	218	Ed. 12-88	
Accumulated Provision for Depreciation of Electric Utility Plant.	219	Ed. 12-02	
Nonutility Property	221	Rev. 12-95	
investment in Subsidiary Companies	224-225	Ed. 12-89	
Materials and Supplies	227	Ed. 12-87	
Allowances	228-229	Ed. 12-89	
Extraordinary Property Losses	230	Ed. 12-88	
Unrecovered Plant and Regulatory Study Costs	230	Ed. 12-88	
Other Regulatory Assets	232	Ed. 12-95	
Miscellaneous Deferred Debits	233	Ed. 12-94	
Accumulated Deferred Income Taxes (Account 190)	234	Ed. 12-88	
BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
Capital Stock	250-251	Ed. 12-91	
Capital Stock Subscribed, Capital Stock Liability for Conversion, Premium on Capital Stock, and installments Received on Capital Stock	252	Rev. 12-95	
Other Paid-in Capital	253	Ed. 12-87	
Discount on Capital Stock	254	Ed. 12-87	
Capital Stock Expense	254	Ed. 12-86	
Long-Term Debt	256-257	Ed. 12-96	

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -88-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

LIST OF SCHEDULES (Electric Utility) (Continued)

Title of Schedule (a)	Reference Page No. (b)	Date Revised (c)	Remarks (d)
BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits) (Continued)			
Reconciliation of Reported Net Income with for Federal Income Taxes	261	Ed. 12-96	
Taxes Accrued,.Prepaid and Charged During Year	262 - 263	Ed. 12-96	
Accumulated Deferred Investment Tax Credits	266 - 267	Ed. 12-89	
Other Deferred Credits	269	Ed. 12-88	
Accumulated Deferred Income Taxes -- Accelerated Amortization Property	272 - 273	Ed. 12-96	
Accumulated Deferred Income Taxes -- Other Property	274 - 275	Ed. 12-96	
Accumulated Deferred Income Taxes Other	276 - 277	Ed. 12-96	
Other Regulatory Liabilities	278	Ed. 12-94	
INCOME ACCOUNT SUPPORTING SCHEDULES			
Electric Operating Revenues	300 - 301	Ed. 12-96	
Sales of Electricity by Rate Schedules	304	Ed. 12-95	
Sales of Resale	310 - 311	Ed. 12-88	
Electric Operation and Maintenance Expenses	320 - 323	Ed. 12-95	
Number of Electric Department Employees	323	Ed. 12-93	
Purchased Power	326 - 327	Ed. 12-95	
Transmission of Electricity for Others	328 - 330	Ed. 12-90	
Transmission of Electricity by Others	332	Ed. 12-90	
Miscellaneous General Expenses -- Electric	335	Ed. 12-94	
Depreciation and Amortization of Electric-- Plant	336 - 337	Rev. 12-02	
Particulars Concerning Certain Income Deduction and Interest Charges Account	340	Ed. 12 - 87	
COMMON SECTION			
Regulatory Commission Expenses	350 - 351	Ed. 12-96	
Research, Development and Demonstration Activities	352 - 353	Ed. 12-87	
Distribution of Salaries and Wages	354 - 355	Ed. 12-88	
Common Utility Plant and Expenses	356	Ed. 12-87	
ELECTRIC PLANT STATISTICAL DATA			
Electric Energy Account	401	Rev. 12-90	
Monthly Peaks and Output	401	Rev. 12-90	
Steam-Electric Generating Plant Statistics (Large Plants)	402 - 403	Rev. 12-02	
Hydroelectric Generating Plant Statistics (large Plants)	406 - 407	Ed. 12-02	
Pumped Storage Generating Plant Statistics (Large Plants)	408 - 409	Ed. 12-02	
Generating Plant Statistics (Small Plants)	410 - 411	Ed. 12-02	

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

LIST OF SCHEDULES (Electric Utility) (Continued)

Title of Schedule (a)	Reference Page No. (b)	Date Revised (c)	Remarks (d)
ELECTRIC PLANT STATISTICAL DATA (Continued)			
Transmission Lines Statistics	422-423	Ed. 12-87	
Transmission Lines Added During Year	424-425	Ed. 12-02	
Substations	426-427	Ed. 12-96	
Electric Distribution Meters and Line Transformers	429	Ed. 12-88	
Environmental protection Facilities	430	Ed. 12-88	
Environmental Protection Expenses	431	Ed. 12-88	
Footnote Data	450	Ed. 12-87	
Stockholders' Reports Check appropriate box:			
[ ] Four copies will be submitted.			
[ ] No annual report to stockholders is prepared.			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -90-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No	Title of Account (a)	Ref. Page No. (b)	Balance at Beginning of year (c)	Balance at End of Year (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stock Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid in Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	(Less) Discount on Capital Stock (213)	254		
10	(Less) Capital Stock expense (214)	254		
11	Retained Earnings (215, 215.1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	118-119		
13	(Less) Reacquired Capital Stock (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	122 (a) (b)		
15	TOTAL Proprietary Capital (Enter Total of Lines 2 thru 14)	-		
16	LONG-TERM DEBT			
17	Bonds (221)	256-257		
18	(Less) Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-Term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	-		
22	(Less) Unamortized Discount on Long-Term Debt-Debit (226)	-		
23	TOTAL Long-Term Debt (Enter Total of Lines 16 thru 21)	-		
24	OTHER NONCURRENT LIABILITIES			
25	Obligations Under Capital Leases-Noncurrent (227)	-		
26	Accumulated Provision for Property Insurance (228.1)	-		
27	Accumulated Provision for Injuries and damages (228.2)	-		
28	Accumulated Provision for Pensions and Benefits (228.3)	-		
29	Accumulated Miscellaneous Operating Provision (228.4)	-		
30	Accumulated Provision for Rate Refunds (229)	-		
31	Asset Retirement Obligations (230)	-		
32	TOTAL OTHER Noncurrent Liabilities (Enter Total of Lines 24 thru 30)			
33	CURRENT AND ACCRUED LIABILITIES			
34	Notes Payable (231)	-		
35	Accounts Payable (232)	-		
36	Notes Payable to Associated Companies (233)	-		
37	Account Payable to Associated Companies (234)	-		
38	Customer Deposits (235)	-		
39	Taxes Accrued (236)	262-263		
40	Interest Accrued (237)	-		
41	Dividends Declared (238)	-		
42	Matured Long-Term Debt (239)	-		
43	Matured Interests (240)	-		
44	Tax Collections Payable (241)	-		
45	Miscellaneous Current and Accrued Liabilities(242)			
46	Obligations Under Capital Leases-Current (243)			

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No	Title of Account (a)	Ref. Page No. (b)	Balance at Beginning of year (c)	Balance at End of Year (d)
47	Derivative Instrument Liabilities (244)			
48	Derivative Instrument Liabilities - Hedging (245)			
49	TOTAL Current and Accrued Liabilities (Enter Total of Lines 34 thru 48)			
50	DEFERRED CREDITS			
51	Customer Advances for Construction (252)			
52	Accumulate Deferred Investment Tax Credits (255)	266-267		
53	Deferred Gains from Disposition of Utility Plant (256)			
54	Other Deferred Credits (253)	269		
55	Other Regulatory Liabilities (254)	278		
55	Unamortized Gain on Reacquired Debt (257)	269		
56	Accumulated Deferred Income Taxes (281-283)	272-277		
57	TOTAL Deferred Credits (Enter Total of Lines 48 thru 54)			
58				
59				
60				
61				
62				
63				
64				
65				
66				
67				
68				
69				
70				
	TOTAL Liabilities and Other Credits (Enter Total of Lines 15, 23, 32,49 and 57)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -92-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR

1. Report amounts for accounts 412 and 413, Revenue and Expenses from Utility Plant Leased to Others, in another Utility column (i,k,m,o) in a similar manner to a utility department. Spread the amount(s) over Lines 02 thru 24 as appropriate. include these amounts in columns (c) and (d) totals.
2. Report amounts in account 414, Other Utility Operating income, in the same manner as accounts 412 and 413 above.
3. Report data for lines 8, 10, and 11 for Natural Gas companies using accounts 404.1, 404.2, 404.3, 407.1 and 407.2.
4. Use page 123 for important notes regarding the statement of income or any account thereof.
5. Give concise explanations concerning unsettled rate proceedings where a contingency exists such that refunds of a material amount may need to be made to the utility's customers or which may result in a material refund to the utility with respect to power or gas purchases. State for each year affected the gross revenues or costs to which the contingency relates and the tax effects together with an explanation of the major factors which affect the rights of the utility to retain such revenues or recover amounts paid with respect to power and gas purchases.
6. Give concise explanations concerning significant amounts of any refunds made or received during the year.

Line No	Title of Account (a)	Ref. Page No. (b)	Balance at Beginning of year (c)	Balance at End of Year (d)
1	UTILITY OPERATING INCOME			
2	Operating Revenues (400)	300-301		
3	Operating Expenses			
4	Operation Expenses (401)	320-323		
5	Maintenance Expenses (402)	320-323		
6	Depreciation Expenses (403)	336-337		
7	Depreciation Expense for Asset Retirement Costs (403.1)	336-337		
8	Amortization. & Depletion of Utility Plant (404-405)	336-337		
9	Amortization of Utility Plant Acquisition Adjustment (406)	336-337		
10	Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs (407)			
11	Amortization of Conversion Expenses (407)			
12	Regulatory Debits (407.3)			
13	(Less) Regulatory Credits (407.4)			
14	Taxes Other than Income Taxes (408.1)	262-263		
15	Income Taxes - Federal (409.1)	262-263		
16	- Other (409.1)	262-263		
17	Provision for deferred Income Taxes (410.1)	234,272-277		
18	(Less) Provision for Deferred Income Taxes - Cr. (411.1)	234,272-277		
19	Investment Tax Credit Adj. - Net (411.4)	266		
20	(Less) Gains from Disp. Of Utility Plant (411.6)			
21	Losses from Disp. Of Utility Plant (411.7)			
22	(Less) Gains from Disposition of Allowances (411.8)			
23	Losses from Disposition of Allowances (411.9)			
24	Accretion Expense (411.10)			
25	TOTAL Utility Operating Expenses (Enter Total of Lines 4 thru 24)			
26	Net Utility Operating Income (Enter Total of line 2 less 25) (Carry forward to page 117, line 25)			

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR (Continued)

resulting from settlement of any rate proceeding affecting revenues received or costs incurred for power or gas purchases, ard a summary *of* the adjustments made to balance sheet, income, and expense accounts.

7. if any notes appearing in the report to stockholders are applicable to this Statement *of* Income, such notes should be included on page 123.

B. Enter on page 123 a concise explanation of only those changes in accounting methods made during the year which had an effect on net income, including the basis of allocations and apportiorunents from those used in the precedingl year. Also give the approximate dollar effect of such changes.

9. Explain in a footnote if the previous year's figures are different from that reported in prior reports.

10. If the columns are insufficient for reporting additional utility departments, supply the appropriate account titles, lines 2 to 23, and report the information on page.123 or in a footnote.

ELECTRIC UTILITY		GAS UTILITY		OTHER UTILITY		
Current Year (e)	Previous Year (f)	Current Year (g)	Previous Year (h)	Current Year (i)	Previous Year (j)	Line No.
						1
						2
						3
						4
						5
						6
						7
						8
						9
						10
						11
						12
						13
						14
						15
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						17
						18
						19
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						21
						22
						23
						24
						25
						26

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -94-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR (Continued)

	OTHER UTILITY		OTHER UTILITY		OTHER UTILITY	
Line No.	Current Year (k)	Previous Year (l)	Current Year (m)	Previous Year (n)	Current Yar (o)	Previous Year (p)
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR (Continued)

Line No	Account (a)	(Ref.) Page No. (b)	TOTAL Current Year (c)	TOTAL Previous Year (d)
27	Net Utility Operating Income (Carried forward from page 114)	--		
28	Other Income and Deductions			
29	Other Income			
30	Nonutility Operating Income			
31	Revenues From Merchandising, Jobbing and Contract Work (415)			
32	(Less) Costs and Exp. Of Merchandising, Job & Contract Work (416)			
33	Revenues From Nonutility Operations (417)			
34	(Less) Expenses of Nonutility Operations (417.1)			
35	Nonoperating Rental Income (418)			
36	Equity in Earnings of Subsidiary Companies (418.1)	119		
37	Interest and Dividend Income (419)			
38	Allowance for Other Funds Used During Construction (419.1)			
39	Miscellaneous Nonoperating Income (421)			
40	Gain on Disposition of Property (421.2)			
41	TOTAL Other Income (Enter Total of Lines 31 thru 40)			
42	Other Income Deductions			
43	Loss on Disposition of Property (421.2)			
44	Miscellaneous Amortization (425)	340		
45	Miscellaneous Income Deductions (426.1-426.5)	340		
46	TOTAL Other Income Deductions (Total of Lines 43 thru 45)			
47	Taxes Applicable To Other Income and Deductions			
48	Taxes Other than Income Taxes (408.2)	262-263		
49	Income Taxes - Federal (409.2)	262-263		
50	Income Taxes - Other (409.2)	262-263		
51	Provision for Deferred Inc. Taxes (410.2)	234,272-277		
52	(Less) Provision for Deferred Income Taxes - Credit (411.2)	234,272-277		
53	Investment Tax Credit Adj. - Net (411.5)			
54	(Less) Investment Tax Credits (420)			
55	TOTAL Taxes on Other Income and Deductions (Total of 48 thru 54)			
56	Net Other Income and Deductions (Enter Total of Lines 41, 46, 55)			
57	Interest Charges			
58	Interest on Long-Term Debt (427)			
59	Amort. Of Debt Disc. And Expense (428)			
60	Amortization of Loss on Reacquired Debt (428.1)			
61	(Less) Amort. Of Premium on Debt - credit (429)			
62	(Less) Amortization of Gain on Reacquired Debt - Credit (429.1)			
63	Interest on Debt to Assoc. Companies (430)	340		
64	Other Interest Expense (431)	340		
65	(Less) Allowance for Borrowed Funds Used During Construction-Cr. (432)			
66	Net Interest Charges (Enter Total of Liens 58 thru 65)			
67	Income Before Extraordinary Items (Total of Lines 27, 56 and 66)			
68	Extraordinary Items			
69	Extraordinary Income (434)			
70	(Less) Extraordinary Deductions (435)			
71	Net Extraordinary Items (Enter Total of Line 69 less Line 70)			
72	Income Taxes-Federal and Other (409.3)	262-263		
73	Extraordinary Items After Taxes (Enter Total of Line 71 less Line 72)			
74	Net Income (Enter Total of Lines 67 and 73)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -96-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ELECTRIC PLANT IN SERVICE (Accounts 101, 102, 103, and 106)

1. Report below the original cost of electric plant in service according to the prescribed accounts.
2. In addition to Account 101, Electric Plant in Service (Classified), this page and the next include Account 102, Electric Plant Purchased or Sold; Account 103, Experimental Electric Plant Unclassified; and Account 106, Completed Construction Not Classified-Electric.
3. Include in column (c) or (d), as appropriate, corrections of additions and retirements for the current or preceding year.
4. For revisions to the amount of initial asset retirement costs capitalized, included by primary plant account, increases in column (c) additions and reductions in column (e) adjustments.
5. Enclose in parentheses credit adjustments of plant accounts to indicate the negative effect of such accounts.
6. Classify Account 106 according to prescribed ac- counts, on an estimated basis if necessary, and include the entries in column (c). Also to be included in column (c) are entries for reversals of tentative distributions of prior year reported in column (b). Likewise, if the respondent has a significant amount of plant retirements which have not been classified to primary accounts at the end of the year, include in column (d) a tentative distribution of such retirements, on an estimated basis, with appropriate contra entry to the account for accumulated depreciation provision. Include also in

Line No	Account (a)	Balance at Beginning of year (b)	Addition (c)
1	1. INTANGIBLE PLANT		
2	(301) Organization		
3	(302) Franchises and Consents		
4	(303) Miscellaneous Intangible Plant		
5	TOTAL Intangible Plant (Enter Total of Lines 2, 3, and 4)		
6	2. PRODUCTION PLANT		
7	A. Steam Production Plant		
8	(310) Land and Land Rights		
9	(311) Structures and Improvements		
10	(312) Boiler Plant Equipment		
11	(313) Engines and Engine-Driven Generators		
12	(314) Tubogenerator Units		
13	(315) Accessory Electric Equipment		
14	(316) Misc. Power Plant Equipment		
15	(317) Asset Retirement Costs for Steam Production		
16	TOTAL Steam Production Plant (Enter Total of Lines 8 thru 15)		
17	B. Nuclear Production Plant		
18	(320) Land and Land Rights		
19	(321) Structures and Improvements		
20	(322) Reactor Plant Equipment		
21	(323) Turbo generator Units		
22	(324) Accessory Electric Equipment		
23	(325) Misc. Power Plant Equipment		
24	(326) Asset Retirement Costs for Nuclear Production		
25	TOTAL Nuclear Production Plant (Enter Total of Lines 18 thru 24)		
26	C. Hydraulic Production Plant		
27	(330) Land and Land Rights		
28	(331) Structures and Improvements		
29	(332) Reservoirs, Dams, and Waterways		
30	(333) Water Wheels, Turbines, and Generators		
31	(334) Accessory Electric Equipment		
32	(335) Misc. Power Plant Equipment		
33	(336) Roads, Railroad, and Bridges		
34	(337) Asset Retirement Costs for Hydraulic Production		
35	TOTAL Hydraulic Production Plant (Enter Total of Lines 27 thru 34)		
36	D. Other Production Plant		
37	(340) Land and Land Rights		
38	(341) Structures and Improvements		
39	(342) Fuel Holders, Products, and Accessories		
40	(343) Prime Movers		
41	(344) Generators		
42	(345) Accessory Electric Equipment		

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ELECTRIC PLANT IN SERVICE (Accounts 101, 102, 103, and 106) (Continued)

column (d) reversals of tentative distributions of prior year of unclassified retirements. Show in a footnote the account distributions of these tentative classifications in columns (c) and (d), including the reversals of the prior years tentative account distributions of these amounts. Careful observance of the above instructions and the texts of Accounts 101 and 106 will avoid serious omissions of the reported amount of respondent's plant actually in service at end of year.

7. Show in column (f) reclassifications or transfers within utility plant accounts. Include also in column (f) the additions or reductions of primary account classifications arising from distribution of amounts initially recorded in Account 102, include in column (e) the amounts with respect to accumulated provision for depreciation, acquisition adjustments, etc., and show in column(f) only the offset to the debits or credits distributed in column (f) to primary account classifications.

8. For Account 399, state the nature and use of plant included in this account and if substantial in amount submit a supplementary statement showing subaccount classification of such plant conforming to the requirement of these pages.

9. For each amount comprising the reported balance and changes in Account 102, state the property purchased or sold, name of vendor or purchase, and date of transaction. If proposed journal entries have been filed with the Commission as required by the Uniform System of Accounts, give also date of such filing.

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)		Line No.
					1
				(301)	2
				(302)	3
				(303)	4
					5
					6
					7
				(310)	8
				(311)	9
				(312)	10
				(313)	11
				(314)	12
				(315)	13
				(316)	14
				(317)	15
					16
					17
				(320)	18
				(321)	19
				(322)	20
				(323)	21
				(324)	22
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				(330)	27
				(331)	28
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				(333)	30
				(334)	31
				(335)	32
				(336)	33
				(337)	34
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				(340)	37
				(341)	38
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				(344)	41
				(345)	42

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -98-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ELECTRIC PLANT IN SERVICE (Accounts 101, 102, 103, and 106)

Line No	Account (a)	Balance at Beginning of year (b)	Addition (c)
43	(346) Misc. Power Plant Equipment		
44	(347) Asset Retirement Costs for Other Production		
45	TOTAL Other Prod. Plant (Enter Total of Lines 37 thru 44)		
46	TOTAL Prod. Plant (Enter Total of Lines 16, 25, 35, and 45)		
47	3. TRANSMISSION PLANT		
48	(350) land and Land Rights		
49	(352) Structures and Improvements		
50	(353)Station Equipment		
51	(354)Towers and Fixtures		
52	(355)Poles and Fixtures		
53	(356) Overhead Conductors and Devices		
54	(357) Underground conduit		
55	(358) Underground Conductors and Devices		
56	(359) Roads and Trails		
57	(359.1) Asset Retirement Costs for Transmission Plant		
58	TOTAL Transmission Plant (Enter Total of Lines 44 thru 52)		
59	4. DISTRIBUTION PLANT		
60	(360) Land and Land Rights		
61	(361) Structures and Improvements		
62	(362) Station Equipment		
63	(363) Storage Battery Equipment		
64	(364) Poles, Towers, and Fixtures		
65	(365) Overhead Conductors and Devices		
66	(366) Underground Conduit		
67	(367) Underground Conductors and Devices		
68	(368) Line Transformers		
69	(369) Services		
70	(370) Meters		
71	(371) Installations on Customer Premises		
72	(372) Leased Property on Customer Premises		
73	(373) Street Lighting and Signal Systems		
74	(374) Asset Retirement Costs for Distribution Plant		
75	Total Distribution Plant (Enter Total of Lines 60 thru 74)		
76	5. GENERAL PLANT		
77	(389) Land and Land Rights		
78	(390) Structures and Improvements		
79	(391) Office Furniture and Equipment		
80	(392) Transportation Equipment		
81	(393) Stores Equipment		
82	(394) Tools, Shop and Garage Equipment		
83	(395) Laboratory, Equipment		
84	(396)Power Operated Equipment		
85	(397) Communication Equipment		
86	(398) Miscellaneous Equipment		
87	SUBTOTAL (Enter Total of Lines 77 thru 86)		
88	(399) Other Tangible Property		
89	(399.1) Asset Retirement Costs for General Plant		
90	TOTAL General Plant (Enter Total of Lines 87, 88, and 89)		
91	TOTAL (Accounts 101 and 106) (Lines 5, 16, 25, 35, 45, 58, 75,90)		
92	(102) Electric Plant Purchased (See Instr. 8)		
93	(Less) (102) Electric Plant Sold (See Instr. 8)		
94	(103) Experimental Plant Unclassified		
95	TOTAL Electric Plant in Service (Enter Total of Lines 91 thru 94)		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -99-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ELECTRIC PLANT IN SERVICE (Accounts 101, 102, 103, and 106) (Continued)

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)		Line No.
				(346)	43
				(347)	44
					45
					46
					47
				(350)	48
				(352)	49
				(353)	50
				(354)	51
				(355)	52
				(356)	53
				(357)	54
				(358)	55
				(359)	56
				(359.1)	57
					58
					59
				(360)	60
				(361)	61
				(362)	62
				(363)	63
				(364)	64
				(365)	65
				(366)	66
				(367)	67
				(368)	68
				(369)	69
				(370)	70
				(371)	71
				(372)	72
				(373)	73
				(374)	74
					75
					76
				(389)	77
				(390)	78
				(391)	79
				(392)	80
				(393)	81
				(394)	82
				(395)	83
				(396)	84
				(397)	85
				(398)	86
					87
				(399)	88
				(399.1)	89
					90
					91
				(102)	92
					93
				(103)	94
					95

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -100-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ACCUMULATED PROVISION FOR DEPRECIATION OF ELECTRIC UTILITY PLANT (Account 108)

1. Explain in a footnote any important adjustments during year.
2. Explain in a footnote any difference between the amount for book cost of plant retired, Line 11, column (c), and that reported for electric plant in service, pages 204-207, column (d), excluding retirements of nondepreciable property.
3. The provisions of Account 108 in the Uniform System of Accounts require that retirements of depreciable plant be recorded when such plant is removed from service. If the respondent has a significant amount of plant retired at year end which has not been recorded and/or classified to the various reserve functional classifications, make preliminary closing entries to tentatively functionalize the book cost of the plant retired. In addition, include all costs included in retirement work in progress at year end in the appropriate functional classifications.
4. Show separately interest credits under a sinking fund or similar method of depreciation accounting.

Section A. Balances and Changes During Year

Line No	Item (a)	Total (c+d+e) (b)	Electric Plant in Service (c)	Electric Plant Held for Future Use (d)	Electric Plant Leased to Others (e)
1	Balance Beginning of Year				
2	Depreciation Provisions for Year, Charged to:				
3	(403) Depreciation Expense				
4	(403.1) Depreciation Expense for Asset Retirement Costs				
5	(413) Expense of Electric Plant Leased to Others				
6	Transportation Expenses-Clearing				
7	Other Clearing Accounts				
8	Other Accounts (Specify):				
9					
10	Total Depreciation, Provision For Year (Enter Total of Lines 3 thru 9)				
11	Net Charges for Plant Retired:				
12	Book Cost of Plant Retired				
13	Cost of Removal				
14	Salvage (Credit)				
15	TOTAL Net Charges For Plant Retired (Enter Total of Lines 12 thru 14)				
16	Other Debit or Credit Items (Describe):				
17					
18	Book Cost of Asset Retirement Costs Retired				
19	Balance End of Year (Enter Total of lines 1, 10, 15, 16 and 18)				
	Section B. Balances at End of Year According to Functional Classifications				
20	Steam Production				
21	Nuclear Production				
22	Hydraulic Production-Conventional				
23	Hydraulic Production-Pumped Storage				
24	Other Production				
25	Transmission				
26	Distribution				
27	General				
28	TOTAL (Enter Total of Lines 20 thru 27)				

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -101-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

DEPRECIATION AND AMORTIZATION OF ELECTRIC PLANT (Accounts 403, 403.1, 404, 405)
(Except Amortization of Acquisition Adjustments)

1. Report in Section A for the year the amounts for: (a) Depreciation Expense (Account 403); (b) Amortization of Limited-Term Electric Plant (Account 404); and (c) Amortization of Other Electric Plant (Account 405).

2. Report in section 8 the rates used to compute amortization charges for electric plant (Accounts 404 and 405). State the basis used to compute charges and whether any changes have been made in the basis or rates used from the preceding report year.

3. Report all available information called for in section C every fifth year beginning with report year 1971, reporting annually only changes to columns (c) through (g) from the complete report of the preceding year.

Unless composite depreciation accounting for total depreciable plant is followed, list numerically in column (a) each plant subaccount, account or functional classification, as appropriate, to which a rate is applied. Identify at the bottom of section C the type of plant included in any subaccount used.

In column (b) report all depreciable plant balances to which rates are applied showing subtotals by functional Classifications and showing composite total. Indicate at the bottom of section C the manner in which column balances are obtained. If average balances, state the method of averaging used.

For columns (c), (d), and (e) report available information for each plant subaccount, account or functional classification Listed in column (a). If plant mortality studies are prepared to assist in estimating average service Lives, show in column (f) the type mortality curve selected as most appropriate for the account and in column (g), if available, the weighted average remaining life of surviving plant.

If composite depreciation accounting is used, report available information called for in columns (b) through (g) on this basis.

4. If provisions for depreciation were made during the year in addition to depreciation provided by application of reported rates, state at the bottom of section C the amounts and nature of. the provisions and the plant items to which related.

A. Summary of depreciation and Amortization Charges

Line No	Functional Classification (a)	Depreciation Expense (Account 403) (b)	Depreciation Expense for Asset Retirement Costs (Account 403.1) (c)	Amortization of Limited-Term Electric Plant (Account 404) (d)	Amortization of Other Electric Plant (Account 405) (e)	Total (f)
1	Intangible Plant					
2	Steam Production Plant					
3	Nuclear Production Plant					
4	Hydraulic Production Plant -- Conventional					
5	Hydraulic Production Plant -- Pumped Storage					
6	Other Production Plant					
7	Transmission Plant					
8	Distribution Plant					
9	General Plant					
10	Common Plant -- Electric					
11	TOTAL					

B. Basis for Amortization Charges

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -102-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STEAM-ELECTRIC GENERATING PLANT STATISTICS (Large Plants)

1. Report data for plant in Service only.
2. Large plants are steam plants with installed capacity (name plate rating) of 25,000 Kw or more. Report in this page gas-turbine and internal combustion plants of 10,000 KW or more, and nuclear plants.
3. Indicate by a footnote any plant leased or operated as a joint facility.
4. If net peak demand for 60 minutes is not available. Give data which is available, specifying period.
5. If any employees attend more than one plant, report on line 11 the approximate average number of employees assignable to each plant
6. If gas is used and purchased on a therm basis report the Btu content of the gas and the quantity of fuel burned converted to Mct.
7. Quantities of fuel burned (line 38) and average cost per unit of fuel burned (line 41) must be consistent with charges to expense accounts 501 and 547 (line 42) as show on line 20.
8. If more than one fuel is burned in a plant furnish only the composite heat rate for all fuels burned.

Line No	Item (a)	Plant Name: (b)	Plant Name: (c)
1	Kind of Plant (Steam, Internal Combustion, Gas Turbine or Nuclear)		
2	Type of Plant Construction (Convention, Outdoor Boiler, Full Outdoor, Etc.)		
3	Year Originally Constructed		
4	Year Last Unit was Installed		
5	Total Installed Capacity (Maximum Generator Name Plate Ratings in MW)		
6	Next Peak Demand on Plant -- MW (60 minutes)		
7	Plant Hours Connected to Load		
8	Net Continuous Plant Capability (Megawatts)		
9	When not Limited by Condenser Water		
10	When Limited by Condenser Water		
11	Average Number of Employees		
12	Net Generation, Exclusive of Plant Use --KWh		
13	Cost of Plant: Land and Land Rights		
14	Structures and Improvements		
15	Equipment Costs		
16	Asset Retirement Costs		
17	Total Cost		
18	Cost per KW of Installed Capacity (Line 17/ Line 5) including Asset Retirement Costs		
19	Production Expenses: Oper. Supv. & Engr.		
20	Fuel		
21	Coolants and Water (Nuclear Plants Only)		
22	Steam Expenses		
23	Steam From Other Sources		
24	Steam Transferred (Cr.)		
25	Electric Expenses		
26	Misc. Steam (or Nuclear) Power Expenses		
27	Rents		
28	Allowances		
29	Maintenance Supervision and Engineering		
30	Maintenance of Structures		
31	Maintenance of Boiler (Or Reactor) Plant		
32	Maintenance of Electric Plant		
33	Maintenance Misc. Steam (or Nuclear) Plant		
34	Total Production Expenses		
35	Expenses per Net KWh		
36	Fuel: Kind (Coal, Gas, Oil, or Nuclear)		
37	Unit: (Coal-tons of 2,000 lb.) (Oil-barrels of 42 gals.) (Gas=Mcf) (Nuclear-indicate)		
38	Quantity (Units) of Fuel Burned		
39	Avg. Heat Cont. Of Fuel Burned (Btu per lb. Of coal per gal. Of oil or per Mcf of gas) (Give unit if nuclear)		
40	Average Cost of Fuel per Unit, as Delivered f. o. b. Plant During Year		
41	Average Cost of Fuel per Unit Burned		
42	Avg. Cost of Fuel Burned per Million Btu		
43	Avg. Cost of Fuel Burned per Kwh Net Generation		
44	Average Btu per Kwh Net Generation		

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STEAM-ELECTRIC GENERATING PLANT STATISTICS (Large Plants) (Continued)

9. Items under Cost of Plant are based on U.S. of A. Accounts. Production expenses do not include Purchased Power, System Control and Load Dispatching, and Other Expenses Classified as Other Power Supply Expenses.
10. For IC and GT plants, report Operating Expenses, Account Nos. 547 and 549 on line 25 "Electric Expenses," and Maintenance Account Nos. 553 and 554 on line 32. "Maintenance of Electric Plant." Indicate plants designed for peak load service. Designate automatically operated plants.
11. For a plant equipped with combinations of fossil fuel steam, nuclear steam, hydro, internal combustion or gas-turbine equipment, report each as a separate plant. However, if a gas -turbine unit functions in a combined cycle operation with a conventional steam unit, include the gas-turbine with the steam plant.
12. If a nuclear power generating plat, briefly explain by footnote (a) accounting method for cost of power generated including any excess costs attributed to research and development; (b) types of cost units used for the various components of fuel cost; and (c) any other informative data concerning plant type fuel used, fuel enrichment type and quantity for the report period and other physical and operating characteristics of plant.

Plant Name: (d)	Plant Name: (e)	Plant Name: (f)	Line No.
			1
			2
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Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -104-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report *(Mo, Da, Yr)*	Year of Report Dec 31, _____

HYDROELECTRIC GENERATING PLANT STATISTICS (Large Plants)

1. Large plants are hydro plants of 10,000 Kw or more of installed capacity (name plate ratings).
2. If any plant is leased, operated under a license from the Federal Energy Regulatory Commission, or operated as a joint facility, indicate such facts in a footnote. If licensed project, give project number.
3. If net peak demand for 60 minutes is not available, give that which is available specifying period.
4. If a group of employees attends more than one generating plan, report on line 11 the approximate average number of employees assignable to each plant.

Line No	Item (a)	FERC Licensed Project No. Plant Name: (b)	FERC Licensed Project No. Plant Name: (c)
1	Kind of Plant (Run-of-River or Storage)		
2	Type of Plant Construction (Conventional or Outdoor)		
3	Year Originally Constructed		
4	Year Last Unit was Installed		
5	Total Installed Capacity (Generator Name Plate Rating in MW)		
6	Net Peak Demand on Plant-Megawatts (60 minutes)		
7	Plant Hours Connected to Load		
8	Net Plant Capability (in megawatts)		
9	(a) Under the Most Favorable Operating Conditions		
10	(b) Under the Most Adverse Operating Conditions		
11	Average Number of Employees		
12	Net Generation, Exclusive of Plant Use-KWh		
13	Cost of Plant:		
14	Land and Land Rights		
15	Structures and Improvements		
16	Reservoirs, Dams, and Waterways		
17	Equipments Costs		
18	Roads, Railroads, and Bridges		
19	Asset Retirement Costs		
20	TOTAL Cost (Enter Total of Lines 14 thru 19)		
21	Cost per KW of Installed Capacity (Line 5) including Asset Retirement Costs		
22	Production Expenses:		
23	Operation Supervision and Engineering		
24	Water for Power		
25	Hydraulic Expenses		
26	Electric Expenses		
27	Misc. Hydraulic Power Generation Expenses		
28	Rents		
29	Maintenance Supervision and Engineering		
30	Maintenance of Structures		
31	Maintenance of Reservoirs, Dams, and Waterways		
32	Maintenance of Electric Plant		
33	Maintenance of Misc. Hydraulic Plant		
34	Total Production Expenses (Total lines 23 thru 33)		
35	Expenses per net KWh		

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

HYDROELECTRIC GENERATING PLANT STATISTICS (large Plants) (Continued)

5. The items under Cost of Plant represent accounts or combinations of accounts prescribed by the uniform System of Accounts. Production Expenses do not include Purchased Power, System control and Load Dispatching, and Other Expenses classified as "Other Power Supply Expenses."

6. Report as a separate plant any plant equipped with combinations of steam, hydro, internal combustion engine, or gas turbine equipment.

FERC Licensed Project No. Plant Name: (d)	FERC Licensed Project No. Plant Name: (e)	FERC Licensed Project No. Plant Name: (f)	Line No
			1
			2
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			4
			5
			6
			7
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			10
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Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -106-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PUMPED STORAGE GENERATING PLANT STATISTICS (Large Plants)

1. Large plants and pumped storage plants of 10,000 Kw or more of installed capacity (name plate ratings).
2. If any plant is leased, operating under a license from the Federal Energy Regulatory Commission, or operated as a joint facility, indicate such facts in a footnote. Give project number.
3. If net peak demand for 60 minutes is not available, give the which is available, specifying period.
4. If a group of employees attends more than one generating plant, report on line 8 the approximate average number of employees assignable to each plant.
5. The items under Cost of Plant represent accounts or combinations of accounts prescribed by the Uniform System of Accounts. Production Expenses do not include Purchased Power System Control and Load Dispatching, and Other Expenses classified as "Other Power Supply Expenses."

Line No	Item (a)	FERC Licensed Project No. Plant Name: (b)
1	Type of Plant Construction (Conventional or Outdoor)	
2	Year Originally Constructed	
3	Year Last Unit was Installed	
4	Total Installed Capacity (Generator Name Plate Ratings in MW)	
5	Net Peak Demand on Plant-Megawatts (60 minutes)	
6	Plant Hours Connected to Load While Generating	
7	Net Plant Capability (In megawatts):	
8	Average Number of Employees	
9	Generation Exclusive of Plant Use-KWh	
10	Energy Used for Pumping-KWH	
11	Net Output for Load (Line 9 minus Line 10)-KWh	
12	Cost of Plant	
13	Land and Land Rights	
14	Structures and Improvements	
15	Reservoirs, Dams, and Waterways	
16	Water Wheels, Turbines, and Generators	
17	Accessory Electric Equipment	
18	Miscellaneous Powerplants Equipment	
19	Roads, Railroads, and Bridges	
20	Asset Retirement Costs	
21	TOTAL Cost (Enter Total of Lines 13 thru 20)	
22	Cost per KW of installed Capacity (Line 21 ÷ Line 4) including Asset Retirement Costs	
23	Production Expenses	
24	Operation Supervision and Engineering	
25	Water for Power	
26	Pumped Storage Expenses	
27	Electric Expenses	
28	Misc. Pumped Storage Power Generation Expenses	
29	Rents	
30	Maintenance Supervision and Engineering	
31	Maintenance of Structures	
32	Maintenance of Reservoirs, Dams, and Waterways	
33	Maintenance of Electric Plant	
34	Maintenance of Misc. Pumped Storage Plant	
35	Production Exp. Before Pumping Exp. (Enter Total of Lines 24 thru 34)	
36	Pumping Expenses	
37	Total Production Expenses (Enter Total of Lines 35 and 36)	
38	Expenses per Kwh (Enter result of line 37 divided by Line 9)	

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -107-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PUMPED STORAGE GENERATING PLANT STATISTICS (Large Plants) (Continued)

6. Pumping energy (line 10) is that energy measured as input to the-plant for pumping purposes.

7. Include on line 35 the cost of energy used in pumping into the storage reservoir. When this item cannot be accurately computed leave Lines 35, 36 and 37 blank and footnote the company's principal sources of pumping power, the estimated amounts of energy from each station or other source that individually provides more than 10 percent of the total energy used for pumping, and production expenses per net MWH as reported herein for each source described. Group together stations and other resources which individually provide less than 10 percent of total pumping energy. If contracts are made with others to purchase power for pumping, give the supplier contract number, and date of contract.

FERC Licensed Project No. Plant Name: (d)	FERC Licensed Project No. Plant Name: (e)	FERC Licensed Project No. Plant Name: (f)	Line No
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Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -108-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GENERATING PLANT STATISTICS (Small Plants) (Continued)

3. List plants appropriately under subheadings for steam, hydro, nuclear, internal combustion and gas turbine plants. For nuclear, see instruction 11, page 403:
4. If net peak demand for 60 minutes is not available, give the which is available, specifying period.
5. If any plant is equipped with combinations of steam, hydro internal combustion or gas turbine equipment, report each as a separate plant. However, if the exhaust heat from the gas turbine is utilized in a steam turbine regenerative feed water cycle, or for preheated combustion air in a boiler, report as one plant.

Plant Cost (Including Asset Retirement Costs) Per MW Installed Capacity (g)	Operation Excluding . Fuel (h)	Production Expenses		Kind of Fuel (k)	Fuel Cost (In cents per million Btu) (l)	Line No
		Fuel (i)	Maintenance (j)			
						1
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						46

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report *(Mo, Da, Yr)*	Year of Report Dec 31, _____

TRANSMISSION LINES ADDED DURING YEAR

7. Report below the information called for concerning Transmission lines added or altered during the year. It is not necessary to report minor revisions of lines.
2. Provide separate subheadings for overhead and underground construction and show each transmission line separately. If actual costs of competed construction are not readily available for reporting columns (l) to (p), it is permissible to report in these columns the estimated final completion.

Line No	LINE DESIGNATION		Line Length in Miles	SUPPORTING STRUCTURE		CIRCUITS PER STRUCTURE	
	From (a)	To (b)	(c)	Type (d)	Average Number Per Miles (e)	Present (f)	Ultimate (g)
1							
2							
3							
4							
5							
6							
7							
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44	TOTAL						

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

TRANSMISSION LINES ADDED DURING YEAR (Continued)

costs. Designate, however, if estimated amounts are reported. Include costs of Clearing Land and Rights-of-Way, and Roads and Trails, in column (l) with appropriate footnote, and costs of Underground Conduit in column (m)

3. If design voltage differs from operating voltage, indicate such fact by footnote; also where line is other than 60 cycle, 3 phase, indicate such other characteristic.

CONDUCTORS			Voltage KV (Operating) (k)	LINE COST					Line No.
Size (h)	Specification (i)	Configuration and Spacing (j)		Land and Land Rights (l)	Poles, Towers and Fixtures (m)	Conductors and Device (n)	Asset Retirement Costs (o)	Total (p)	
									1
									2
									3
									4
									5
									6
									7
									8
									9
									10
									11
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									14
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									44

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -111-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PART III: COMPARATIVE BALANCE SHEET (Continued)

	Liabilities and Other Credits (a)	Balance at Beginning of year (b)	Balance at End of Year (c)
01	Common Stock Issued *(201)*		
02	Preferred Stock Issued *(204)*		
03	Miscellaneous Paid-in Capital *(211)*		
04	Installments Received on Capital Stock *(212)*		
05	Discount on Capital Stock - Debit *(213)*		
06	Capital Stock Expenses - Debit *(214)*		
07	Retained Earnings *(215-216)*		
08	Reacquired Capital Stock - Debit *(217)*		
09	Noncorporate Proprietorship *(218)*		
10	Accumulated Other Comprehensive Income *(219)*		
11	TOTAL PROPRIETARY CAPITAL *(Enter total of lines 01 thru 10)*		
12	Bonds *(221)*		
13	Advances From Associated Companies *(223)*		
14	Other Long-term Debt (Specify in footnote) *(224)*		
15	Unamortized Premium on Long-term Debt *(225)*		
16	Unamortized Discount on Long-term Debt - Debit (226)		
17	TOTAL LONG-TERM DEBT *(Enter total of lines 12 thru 16)*		
18	Other Noncurrent Liabilities:		
19	Obligations Under Capital Leases - Noncurrent *(227)*		
20	Accumulated Provision tor Property Insurance *(228, 1)*		
21	Accumulated Provision for Injuries and Damages *(228.2)*		
22	Accumulated Provision for Pensions and Benefits (228.3)		
23	Accumulated Miscellaneous Operating Provisions *(228.4)*		
24	Accumulated Provision for Rate Refunds *(229)*		
25	Asset Retirement Obligations *(230)*		
26	*TOTAL OTHER NONCURRENT LIABILITIES (Enter Total of Lines 19 thru 25)*		
27	Current and Accrued Liabilities:		
28	Notes and Accounts Payable (Report amounts applicable to associated companies in a footnote) *(231* to *234)*		
29	Customer Debits *(235)*		
30	Taxes Accrued *(236)*		
31	Interest Accrued *(237)*		
32	Miscellaneous Current and Accrued Liabilities *(242)*		
33	Obligations Under Capital Leases-Current *(243)*		
34	Derivative Instrument Liabilities *(244)*		
35	Derivative Instrument Liabilities - Hedges *(245)*		
36	TOTAL CURRENT AND ACCRUED LIABILITIES *(Enter total of* lines *28* thru *35)*		
37	Deferred Credits:		
38	Customer Advances for Construction *(252)*		
39	Other Deferred Credits *(253)*		
40	Other Regulatory Liabilities *(254)*		
41	Accumulated Deferred Investment Tax Credits *(255)*		
42	Deferred Gains from Disposition of Utility Plant *(256)*		
43	Unamortized Gain on Reacquired Debt *(257)*		
44	Accumulated Deferred Income Taxes *(281-283)*		
45	TOTAL DEFERRED CREDITS *(Enter total of lines 38 thru 44)*		
46	TOTAL LIABILITIES AND OTHER CREDITS *(Enter total of lines 11, 17, 26, 36 and 45)*		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -112-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PART IV: STATEMENT OF INCOME FOR THE YEAR (Continued)

1. Report amounts for accounts 412 and 413, Revenues and expenses from Utility Plant Leased to Others, in the Other Utility column (h, I or j, k) in a similar manner to a utility department. Spread the amount(s) over lines 01 to 22 as appropriate. Include these amounts in column (b) and (c) totals.
2. Report amounts for account 414, Other Utility Operating Income, in the same manner as accounts 412 and 413.
3. Provide an explanation in Part VII. Notes to Financial Statements, of such unsettled rate proceedings where a contingency exists that refunds of a material amount may need to be made to the utility's customers or which may result in a material refund to the utility with respect to power or gas purchases. State for each year affected the gross revenues or costs to which the contingency relates and the tax effects; include an explanation for the major factors which affect the rights of the utility to retain such revenues or to recover amounts paid with respect to power or gas purchases.

	Account (a)	Total (d to k)		Electric Utility	
		Current Year (b)	Change From Previous Year (c)	Current Year (d)	Change From previous Year (e)
01	UTILITY OPERATING INCOME				
02	Operating Revenues *(400)*				
03	Operating Expenses:				
04	Operating Expenses (401)				
05	Maintenance Expense (402)				
06	Depreciation Expense (403)				
07	Depreciation Expense for Asset Retirement Costs (403.1)				
08	Amortization Expense (Specify by account)				
09					
10	Regulatory Debits (407.3)				
11	(Less) Regulatory Credits (407.4)				
12	Taxes Other Than Income Taxes (408.1)				
13	Federal Income Taxes (409.1)				
14	Other Income Taxes (409. 1)				
15	Provision For Deferred Income Taxes (410.1)				
16	Provision For Deferred Income Taxes - Credit (411.1)				
17	Investment Tax Credit Adjustments - Net (411.4)				
18	Gains From Disposition of Utility Plant (411.6)				
19	Losses From Disposition of Utility Plant (411.7)				
20	Gains From Disposition of Allowances (411.8)				
21	Losses From Disposition of Allowances (411.9)				
22	Accretion Expense (411.10)				
23	TOTAL UTILITY OPERATING EXPENSES *(Enter total of lines 04 thru 22)*				
24	Net Utility Operating Income *(Enter total of* line 02 less 23)				

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PART IV: STATEMENT OF INCOME FOR THE YEAR (Continued)

4. Provide an explanation in Part VII, Notes to Financial Statements, of significant amounts of any refunds made or received during the year resulting from settlement of any rate proceeding affecting revenued received for costs incurred for power or gas purchases and a summary of the adjustment made to balance sheet, income, and expense accounts.

5. If any note appearing in the report to stockholders are applicable to the statement of income, either include such note in an attachment, or enter such data in Part VII.

6. Provide an explanation in Part VII, Notes to Financial Statements of only those changes in account methods made during the year which had an effect on net income, including the basis of allocations and apportionments from those used in the preceding year. Also, give the approximate dollar effects of such changes.

Gas Utility		Other Utility		Other utility		Account	
Current Year (f)	Change From Previous Year (g)	Current Year (h)	Change From Previous Year (i)	Current Year (j)	Change From Previous Year (k)		
							01
						(400)	02
							03
						(401)	04
						(402)	05
						(403)	06
						(403.1)	07
							08
							09
						(407.3)	10
						(407.4	11
						(408.1)	12
						(409.1)	13
						(409.1)	14
						(410.1)	15
						(411.1)	16
						(411.4)	17
						(411.6)	18
						(411.7)	19
						(411.8)	20
						(411.9)	21
						(411.10)	22
						TOTAL	23
						NET	24

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -114-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PART IV: STATEMENT OF INCOME FOR THE YEAR (Continued)

	Account (a)	Total Current Year (b)	Total Change From Previous Year (c)
24	Net Utility Operating Income *(Carrier Forward from line 24, page 6)*		
25	OTHER INCOME AND DEDUCTIONS		
26	Other Income:		
27	Nonutility Operating Income *(415-418)*		
28	Interest and Dividend Income *(419)*		
29	Allowance for Other Funds Used During Construction *(419.1)*		
30	Miscellaneous Nonoperating Income *(421)*		
31	Gain on Disposition of Property *(415-418)*		
32	TOTAL OTHER INCOME *(Enter Total of lines 27 thru 31)*		
33	Other Income Deductions:		
34	Loss on Disposition of Property *(421.2)*		
35	Miscellaneous Amortization *(425)*		
36	Miscellaneous Income Deductions *(426.1 - 426.5)*		
37	TOTAL OTHER INCOME DEDUCTIONS *(Enter total of lines 34 thru 36)*		
38	Taxes Applicable to Other Income and Deductions:		
39	Taxes Applicable to Other Income and Deductions:		
40	Federal Income Taxes *(409.2)*		
41	Other Income Taxes *(409.2)*		
42	Provision for Deferred Income Taxes *(410.2)*		
43	Provision for Deferred Income *(411.2)*		
44	Investment Tax Credit Adjustments - Net *(411.5)*		
45	Investment Tax Credits *(420)*		
46	TOTAL TAXES APPLICABLE TO OTHER INCOME AND DEDUCTIONS *(Enter total of lines 40 thru 45)*		
47	Net Other Income and Deductions *(Enter total of line 32 less 37 and 46)*		
48	INTEREST CHARGES		
49	Interest on Long-term Debt *(427)*		
50	Amortization of Debt Discount and Expense *(428)*		
51	Amortization of Loss on Reacquired Debt *(428.1)*		
52	Amortization of Premium on Debt - Credit *(429)*		
53	Amortization of Gain on Reacquired Debt - Credit *(429. 1)*		
54	Interest on Debt to Associated Companies *(430)*		
55	Other Interest Expense *(431)*		
56	Allowance For Borrowed Funds Used During Construction - Credit *(432)*		
57	Net Interest Charge *(Enter total of lines 49 thru 56)*		
58	Income Before Extraordinary Items *(Enter total of lines 24 and 47, less 57)*		
59	EXTRAORDINARY ITEMS		
60	Extraordinary Income *(434)*		
61	Extraordinary Deduction - Debit *(435)*		
62	Net Extraordinary Items *(Enter total of line 60 less 61)*		
63	Income Taxes - *(409.3)*		
64	Extraordinary Items After Taxes *(Enter total of line 62 less 63)*		
65	Net Income *(Enter total of* lines *58 and* 64)		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -115-

(SUBSTITUTE PAGE FOR PART III)

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Ref Page No. (b)	Balance at Beginning of Year (c)	Balance at End of Year (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stock Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on-Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	(Less) Discount on Capital Stock (213)	254		
10	(Less) Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215.1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	118-119		
13	(Less) Reacquired Capital Stock (217)	250-251		
14	Accumulated Other Comprehensive Income *(219)*	122 (a) (b)		
15	TOTAL Proprietary Capital *(Enter Total of* lines 2 *thru 14)*	-		
16	LONG-TERM DEBT			
17	Bonds (221)	256-257		
18	(Less) Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-Term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	-		
22	(Less) Unamortized Discount on Long-Term Debt-Debit (226)	-		
23	TOTAL Long-Term Debt (Enter Total *of* lines 17 thru 22)	-		
24	OTHER NONCURRENT LIABILITIES			
25	Obligations Under Capital Leases - Noncurrent (227)	-		
26	Accumulated Provision for Property Insurance (228.1)	-		
27	Accumulated Provision for Injuries and Damages (228.2)	-		
28	Accumulated Provision for Pensions and Benefits (228.3)	-		
29	Accumulated Miscellaneous Operating Provisions (228.4)	-		
30	Accumulated Provision for Rate Refunds (229)	-		
31	Asset Retirement Obligations (230)	-		
32	TOTAL Other Noncurrent Liabilities (Enter Total *of* lines 25 thru 31)			
33	CURRENT AND ACCRUED LIABILITIES			
34	Notes Payable (231)	-		
35	Accounts Payable (232)	-		
36	Notes Payable to Associated Companies (233)	-		
37	Accounts Payable to Associated Companies (234)	-		
38	Customer Deposits (235)	-		
39	Taxes Accrued (236)	262-263		
40	Interest Accrued (237)	-		
41	Dividends Declared (238)	-		
42	Matured Long-Term Debt (239)	-		
43	Matured Interest (240)	-		
44	Tax Collections Payable (241)	-		
45	Miscellaneous Current and Accrued Liabilities (242)	-		
46	Obligations Under Capital Leases-Current (243)	-		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -116-

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No.	Title of Account (a)	Ref Page No. (b)	Balance at Beginning of Year (c)	Balance at End of Year (d)
47	Derivative Instrument Liabilities (244)			
48	Derivative Instrument Liabilities - Hedging (245)			
49	TOTAL Current and Accrued Liabilities *(Enter Total of* lines 34 *thru 48)*			
50	DEFERRED CREDITS			
51	Customer Advances for Construction (252)			
52	Accumulated Deferred Investment Tax Credits (255)	266-267		
53	Deferred Gains from Disposition of Utility Plant (256)			
54	Other Deferred Credits (253)	269		
55	Other Regulatory Liabilities (254)	278		
56	Unamortized Gain on Reacquired Debt (257)			
57	Accumulated Deferred Income Taxes (281-283)	272-277		
58	TOTAL Deferred Credits *(Enter Total of lines 51 thru 57)*			
59				
60				
61				
62				
63				
64				
65				
66				
67				
68				
69				
70				
71				
72	TOTAL Liabilities and Other Credits *(Enter Total of lines 15, 23, 32, 49 and 58)*			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -117-

(SUBSTITUTE PAGE FOR PART IV)

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR

1. Report amounts for accounts *412* and *413, Revenue and Expenses from Utility Plant Leased* to Others, in another utility column (l, k, m, o) in a similar manner to a utility department. Spread the amount(s) over lines *02* thru *24* as appropriate. Include these amounts in columns (c) and (d) totals.
2. Report amounts in account *414*, Other *Utility* Operating Income, in the same manner as accounts *412* and *413* above.
3. Report data for lines 8, 10, and 11 for Natural Gas companies using accounts *404.1, 404.2, 404.3, 407. 1,* and *407.2.*
4. *Use* page *122* for important notes regarding the statement of income or any account thereof.
5. Give concise explanations concerning unsettled rate proceedings where a contingency exists such that refunds of a material amount may need to be made to the utility's customers or which may result in a material refund to the utility with respect to power or gas purchases. State for each year affected the gross revenues or costs to which the contingency relates and the tax effects together with an explanation of the major factors which affect the rights of the utility to retain such revenues or recover amounts paid with respect to power and gas purchases.
6. Give concise explanations concerning significant amounts of any refunds made or received during the year

Line No.	Title of Account (a)	Ref Page No (b)	TOTAL Current Year (c)	TOTAL Previous Year (d)
1	UTILITY OPERATING INCOME			
2	Operating Revenues (400)	300-301		
3	Operating Expenses			
4	Operation Expenses (401)	320-325		
5	Maintenance Expenses (402)	320-325		
6	Depreciation Expense (403)	336-338		
7	Depreciation Expense for Asset Retirement Costs (403.1)	336-338		
8	Amortization & Depletion of Utility Plant (404-405)	336-338		
9	Amortization of Utility Plant Acquisition Adjustment (406)	336-338		
10	Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs (407)			
11	Amortization of Conversion Expenses (407)			
12	Regulatory Debits (407-3)			
13	(Less) Regulatory Credits (407.4)			
14	Taxes Other Than Income Taxes (408.1)	262-263		
15	Income Taxes - Federal (409.1)	262-263		
16	- Other (409.1)	262-263		
17	Provision for Deferred Income Taxes (410.1)	234, 272-277		
18	(Less) Provision for Deferred Income Taxes-Cr. (411.1)	234, 272-277		
19	Investment Tax Credit Adjustment - Net (411.4)	266		
20	(Less) Gains from Disp. of Utility Plant (411.6)			
21	Losses from Disp. of Utility Plant (411.7)			
22	(Less) Gains from Disposition of Allowances (411.8)			
23	Losses from Disposition of Allowances (411.9)			
24	Accretion Expense (411.10)			
25	TOTAL Utility Operating Expenses (Enter Total of lines 4 thru 24)			
26	Net Utility Operating Income (Enter Total of line 2 less 25) (Carry forward to page 117, line 27)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -118-

(SUBSTITUTE PAGE FOR PART IV)

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR (Continued)

Line No.	Title of Account (a)	Ref Page No. (b)	TOTAL Current Year (c)	TOTAL Previous Year (d)
27	Net Utility Operating Income *(Carried forward from page 114)*	-		
28	Other Income and Deductions			
29	Other Income			
30	Nonutiity Operating Income			
31	Revenues From Merchandising, Jobbing and Contract Work (415)			
32	(Less) Costs and Expenses of Merchandising, Jobbing & Contract Work (416)			
33	Revenues From Nonutlity Operations (417)			
34	(Less) Expenses of Nonutility operations (417.1,)			
35	Nonoperating Rental Income (418)			
36	Equity in Earnings of Subsidiary Companies (418.1)	119		
38	Interest and Dividend Income (419)			
39	Allowance for Other Funds Used During Construction (411.1)			
40	Gain on Disposition of Property (421.1)			
41	TOTAL Other income *(Enter Total of lines 31 thru 40)*			
42	Other Income Deductions			
43	Loss on Disposition of Property (421.2)			
44	Miscellaneous Amortization (425)	340		
45	Miscellaneous Income Deductions (426.1 thru 426.5)	340		
46	TOTAL Other Income Deductions(Total of lines 43 thru 45)			
47	Taxes Applicable to Other Income and Deductions			
48	Taxes Other Than income Taxes (408.2)	262-263		
49	Income Taxes-Federal (409.2)	262-263		
50	Income Taxes-Other (409.2)	262-263		
51	Provision for Deferred Inc. Taxes (410.2)	234,272-277		
52	(Less) Provision for Deferred Income Taxes--Cr. (411.2)	234,272-277		
53	Investment Tax Credit Adjustment - Net (411.5)			
54	(Less) Investment Tax Credits (420)			
55	TOTAL Taxes on Other Income and Deductions (Enter Total of 48 thru 54)			
56	Net Other Income and Deductions (Enter Total of lines 41, 46, 55)			
57	Interest Charges			
58	Interest on Long-Term Debt (427)			
59	Amort. of Debt Disc. and Expense (428)			
60	Amortization of Loss on Reacquired Debt (428.1)			
61	(Less) Amortization of Premium on Debt-Credit (429)			
62	(Less) Amortization of Gain on Reacquired Debt-Credit (429.1)			
63	Interest on Debt to Assoc. Companies (430)	340		
64	Other Interest Expense (431)	340		
65	(Less) Allowance for Borrowed Funds Used During Construction--Cr. (432)			
66	Net Interest Charges (Enter Total of lines 58 thru 65)			
67	Income Before Extraordinary Items (Enter Total of lines 27, 56 and 66)			
68	Extraordinary Items			
69	Extraordinary income (434)			
70	(Less) Extraordinary Deductions (435)			
71	Net Extraordinary Items (Enter Total of line 69 less line 70)			
72	Income Taxes-Federal and Other (409.3)	262-263		
73	Extraordinary Items After Taxes (Enter Total *of line 71* less line 72)			
74	Net Income *(Enter Total of lines 67 and 73)*			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -119-

(SUBSTITUTE PAGE FOR PART XX)

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ELECTRIC PLANT IN SERVICE (Accounts 101, 102, 103, and 106)

1. Report below the original cost of electric plant in service according to the prescribed accounts.
2. In addition to Account 101, Electric Plant in Service (Classified), this page and the next include Account 102, Electric Plant Purchased or Sold; Account 103, Experimental Electric Plant Unclassified; and Account 106, Completed Construction Not Classified-Electric.
3. Include in column (c) or (d), as appropriate, corrections of additions and retirements for the current or preceding year.
4. For revisions to the amount of initial asset retirement costs capitalized, included by primary plant account, increases in column (c) additions and reductions in column (e) adjustments 5. Enclose in parentheses credit adjustments of plant accounts to indicate the negative effect of such accounts.
5. Classify Account 106 according to prescribed accounts, on an estimated basis if necessary, and include the entries in column (c). Also to be included in column (c) are entries for reversals of tentative distributions of prior year reported in column (b). Likewise, if the respondent has a significant amount of plant retirements which have not been classified to primary accounts at the end of the year, include in column (d) a tentative distribution of such retirements, on an estimated basis, with appropriate contra entry to the account for accumulated depreciation provision. Include also in column (d) reversals of tentative distributions of prior year of unclassified retirements.

Line No	Account (a)	Balance at Beginning of year (b)	Addition (c)
1	1. INTANGIBLE PLANT		
2	(301) Organization		
3	(302) Franchises and Consents		
4	(303) Miscellaneous Intangible Plant		
5	TOTAL Intangible Plant (Enter Total of Lines 2, 3, and 4)		
6	2. PRODUCTION PLANT		
7	A. Steam Production Plant		
8	(310) Land and Land Rights		
9	(311) Structures and Improvements		
10	(312) Boiler Plant Equipment		
11	(313) Engines and Engine-Driven Generators		
12	(314) Tubogenerator Units		
13	(315) Accessory Electric Equipment		
14	(316) Misc. Power Plant Equipment		
15	(317) Asset Retirement Costs for Steam Production		
16	TOTAL Steam Production Plant (Enter Total of Lines 8 thru 15)		
17	B. Nuclear Production Plant		
18	(320) Land and Land Rights		
19	(321) Structures and Improvements		
20	(322) Reactor Plant Equipment		
21	(323) Turbo generator Units		
22	(324) Accessory Electric Equipment		
23	(325) Misc. Power Plant Equipment		
24	(326) Asset Retirement Costs for Nuclear Production		
25	TOTAL Nuclear Production Plant (Enter Total of Lines 18 thru 24)		
26	C. Hydraulic Production Plant		
27	(330) Land and Land Rights		
28	(331) Structures and Improvements		
29	(332) Reservoirs, Dams, and Waterways		
30	(333) Water Wheels, Turbines, and Generators		
31	(334) Accessory Electric Equipment		
32	(335) Misc. Power Plant Equipment		
33	(336) Roads, Railroad, and Bridges		
34	(337) Asset Retirement Costs for Hydraulic Production		
35	TOTAL Hydraulic Production Plant (Enter Total of Lines 27 thru 34)		
36	D. Other Production Plant		
37	(340) Land and Land Rights		
38	(341) Structures and Improvements		
39	(342) Fuel Holders, Products, and Accessories		
40	(343) Prime Movers		
41	(344) Generators		
42	(345) Accessory Electric Equipment		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -120

(SUBSTITUTE PAGE FOR PART XX)

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ELECTRIC PLANT IN SERVICE (Accounts 101, 102, 103, and 106) (Continued)

Show in a footnote the account distributions of these tentative classifications in columns (c) and (d), including the reversals of the prior years tentative account distributions of these amounts. Careful observance of the above instructions and the texts of Accounts 101 and 106 will avoid serious omissions of the reported amount of respondent's plant actually in service at end of year.

7. Show in column (f) reclassifications or transfers within utility plant accounts. Include also in column (f) the additions or reductions of primary account classifications arising from distribution of amounts initially recorded in Account 102, include in column (e) the amounts with respect to accumulated provision for depreciation, acquisition adjustments, etc., and show in column (f) only the offset to the debits or credits distributed in column (f) to primary account classifications.

8. For Account 399, state the nature and use of plant included in this account and if substantial in amount, footnote and provide a supplementary statement showing subaccount classification of such plant conforming to the requirement of these pages.

9. For each amount comprising the reported balance and changes in Account 102, state the property purchased or sold, name of vendor or purchase, and date of transaction. If proposed journal entries have been filed with the Commission as required by the Uniform System of Accounts, give also date of such filing.

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)		Line No.
					1
				(301)	2
				(302)	3
				(303)	4
					5
					6
					7
				(310)	8
				(311)	9
				(312)	10
				(313)	11
				(314)	12
				(315)	13
				(316)	14
				(317)	15
					16
					17
				(320)	18
				(321)	19
				(322)	20
				(323)	21
				(324)	22
				(325)	23
				(326)	24
					25
					26
				(330)	27
				(331)	28
				(332)	29
				(333)	30
				(334)	31
				(335)	32
				(336)	33
				(337)	34
					35
					36
				(340)	37
				(341)	38
				(342)	39
				(343)	40
				(344)	41
				(345)	42

(SUBSTITUTE PAGE FOR PART XX)

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ELECTRIC PLANT IN SERVICE (Accounts 101, 102, 103, and 106)

Line No	Account (a)	Balance at Beginning of year (b)	Addition (c)
43	(346) Misc. Power Plant Equipment		
44	(347) Asset Retirement Costs for Other Production		
45	TOTAL Other Production Plant (Enter Total of Lines 37 thru 44)		
46	TOTAL Production Plant (Enter Total of Lines 16, 25, 35, and 45)		
47	3. TRANSMISSION PLANT		
48	(350) Land and Land Rights		
49	(352) Structures and Improvements		
50	(353) Station Equipment		
51	(354) Towers and Fixtures		
52	(355) Poles and Fixtures		
53	(356) Overhead Conductors and Devices		
54	(357) Underground conduit		
55	(358) Underground Conductors and Devices		
56	(359) Roads and Trails		
57	(359.1) Asset Retirement Costs for Transmission Plant		
58	TOTAL Transmission Plant (Enter Total of Liens 48 thru 57)		
59	4. DISTRIBUTION PLANT		
60	(360) Land and Land Rights		
61	(361) Structures and Improvements		
62	(362) Station Equipment		
63	(363) Storage Battery Equipment		
64	(364) Poles, Towers, and Fixtures		
65	(365) Overhead Conductors and Devices		
66	(366) Underground Conduit		
67	(367) Underground Conductors and Devices		
68	(368) Line Transformers		
69	(369) Services		
70	(370) Meters		
71	(371) Installations on Customer Premises		
72	(372) Leased Property on Customer Premises		
73	(373) Street Lighting and Signal Systems		
74	(374) Asset Retirement Costs for Distribution Plant		
75	Total Distribution Plant (Enter Total of lines 60 thru 75)		
76	5. GENERAL PLANT		
77	(389) Land and Land Rights		
78	(390) Structures and Improvements		
79	(391) Office Furniture and Equipment		
80	(392) Transportation Equipment		
81	(393) Stores Equipment		
82	(394) Tools, Shop and Garage Equipment		
83	(395) Laboratory, Equipment		
84	(396)Power Operated Equipment		
85	(397) Communication Equipment		
86	(398) Miscellaneous Equipment		
87	SUBTOTAL (Enter Total of Lines 77 thru 86)		
88	(399) Other Tangible Property		
89	(399.1) Asset Retirement Costs for General Plant		
90	TOTAL General Plant (Enter Total of Lines 87, 88, and 89)		
91	TOTAL (Accounts 101 and 106) (Lines 5, 16, 25, 35, 45, 58, 75, and 90)		
92	(102) Electric Plant Purchased (See Instr. 8)		
93	(Less) (102) Electric Plant Sold (See Instr. 8)		
94	(103) Experimental Plant Unclassified		
95	TOTAL Electric Plant in Service (Enter Total of Lines 91 thru 94)		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -122-

(SUBSTITUTE PAGE FOR PART XX)

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ELECTRIC PLANT IN SERVICE (Accounts 101, 102, 103, and 106) (Continued)

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)		Line No.
				(346)	43
				(347)	44
					45
					46
					47
				(650)	48
				(352)	49
				(353)	50
				(354)	51
				(355)	52
				(356)	53
				(357)	54
				(358)	55
				(359)	56
				(359.1)	57
					58
					59
				(360)	60
				(361)	61
				(362)	62
				(363)	63
				(364)	64
				(365)	65
				(366)	66
				(367)	67
				(368)	68
				(369)	69
				(370)	70
				(371)	71
				(372)	72
				(373)	73
				(374)	74
					75
					76
				(389)	77
				(390)	78
				(391)	79
				(392)	60
				(393)	81
				(394)	82
				(395)	83
				(396)	84
				(397)	85
				(398)	86
					87
				(399)	88
				(399.1)	89
					90
					91
				(102)	92
					93
				(103)	94
					95

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -123-

(SUBSTITUTE PAGE FOR PART XII)

Name of Respondent	This Report is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ACCUMULATED PROVISION FOR DEPRECIATION OF ELECTRIC UTILITY PLANT (Account 108)

1. Explain in a footnote any important adjustments during year.
2. Explain in a footnote any difference between the amount for book cost of plant retired, Line 11, column (c), and that reported for electric plant in service, pages 204-207, column 9d), excluding retirements of nondepreciable property.
3. The provisions of Account 108 in the Uniform System of accounts require that retirements of depreciable plant be recorded when such plant is removed from service. If the respondent has a significant amount of plant retired at year end which has not been recorded and/or classified to the various reserve functional classifications, make preliminary closing entries to tentatively functionalize the book cost of the plant retired. In addition, include all costs included in retirement work in progress at year end in the appropriate functional classifications.
4. Show separately interest credits under a sinking fund or similar method of depreciation accounting.

Section A. Balances and Changes During Year

Line No	Item (a)	Total (c+d+e) (b)	Electric Plant in Service (c)	Electric Plant Held for Future Use (d)	Electric Plant leased to Others (e)
1	Balance Beginning of Year				
2	Depreciation Provisions for Year, Charged to				
3	(403) Depreciation Expense				
4	(403.1) Depreciation Expense for Asset Retirement Costs				
5	(413) Expenses of Electric Plant Leased to Others				
6	Transportation Expenses - Clearing				
7	Other Clearing Accounts				
8	Other Accounts (Specify):				
9					
10	Total Depreciation Provision For Year (Enter Total of Lines 3 thru 9)				
11	Net Charges for Plant Retired:				
12	Book Cost of Plant Retired				
13	Cost of Removal				
14	Salvage (Credit)				
15	TOTAL Net Charges For Plant Retired (Enter Total of Lines 12 thru 14)				
16	Other Debit or Credit Items (Describe):				
17					
18	Book Cost of Asset Retirement Costs				
19	Balance End of Year (Enter Total of lines 1, 10, 15, 16, and 18)				
	Section B. Balances at End of Year According to Functional Classifications				
20	Steam Production				
21	Nuclear Production				
22	Hydraulic Production-Conventional				
23	Hydraulic Production-Pumped Storage				
24	Other Production				
25	Transmission				
26	Distribution				
27	General				
28	TOTAL (Enter Total of Lines 20 thru 27)				

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -124-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

LIST OF SCHEDULES (Natural Gas Company)

Enter in column (d) the terms "none," "not applicable," or "NA" as appropriate, where no information or amounts have been reported for certain pages Omit pages where the responses are "none," "not applicable," or "NA

Line No	Title of Schedule	Reference Page No (b)	Date Revised (c)	Remarks (d)
	GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
1	General Information	101		
2	Control Over Respondent	102		
3	Corporations Controlled by Respondent	103		
4	Security Holders and Voting Powers	107		
5	Important Changes During the Year	108		
6	Comparative Balance Sheet	110-113		
7	Statement of Income for the Year	114-116		
8	Statement of Accumulated Comprehensive Income and Hedging Activities	117(a)(b)		
9	Statement of Retained Earnings for the Year	118-119		
10	Statements of Cash Flows	120-121		
11	Notes to Financial Statements	122		
	BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debits)			
12	Summary of Utility Plant and Accumulated Provisions for Depreciation, Amortization, and Depletion	200-201		
13	Gas Plant in Service	204-209		
14	Gas Property and Capacity Leased from Others	212		
15	Gas Property and Capacity Leased to Others	213		
16	Gas Plant Held for Future Use	214		
17	Construction Work in Progress-Gas	216		
18	General Description of Construction Overhead Procedure	218		
19	Accumulated Provision for Depreciation of Gas Utility Plant	219		
20	Gas Stored	220		
21	Investments	222-223		
22	Investments in Subsidiary Companies	224-225		
23	Prepayment	230		
24	Extraordinary Property Losses	230		
25	Unrecovered Plant and Regulatory Study Costs	230		
26	Other Regulatory Assets	232		
27	Miscellaneous Deferred Debits	233		
28	Accumulated Deferred Income Taxes	234-235		
	BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
29	Capital Stock	230-251		
30	Capital Stock Subscribed, Capital Stock Liability for Conversion, Premium on Capital Stock, and Installments Received on Capital Stock	252		
31	Other Paid-in Capital	253		
32	Discount on Capital Stock	254		
33	Capital Stock Expense	254		
34	Securities issued or Assumed and Securities Refunded or Retired During the Year	255		
35	Long-Term Debt	256-257		
36	Unamortized Debt Expense, Premium, and Discount on Long-Term Debt	258-259		
37	Unamortized Loss and Gain on Reacquired Debt	260		
38	Reconciliation of Reported Net Income with Taxable Income for Federal Income Taxes	261		

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

LIST OF SCHEDULES (Natural Gas Company)

Enter in column (d) the terms "none," "not applicable," or "NA" as appropriate, where no information or amounts have been reported for certain pages Omit pages where the responses are "none," "not applicable," or "NA

Line No	Title of Schedule	Reference Page No (b)	Date Revised (c)	Remarks (d)
	BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits) (Continued)			
39	Taxes Accrued, Prepaid, and Charged During Year	262-263		
40	Miscellaneous Current and Accrued Liabilities	268		
41	Other Deferred Credits	269		
42	Accumulated Deferred Income Taxes-Other Property	274-275		
43	Accumulated Deferred Income Taxes-Other	276-277		
44	Other Regulatory Liabilities	278		
	INCOME ACCOUNT SUPPORTING SCHEDULES			
45	Gas Operating Revenues	300-301		
46	Revenues from Transportation of Gas of Others Through Gathering Facilities	302-303		
47	Revenues from Transportation of Gas of Others Through Transmission Facilities	304-305		
48	Revenues from Storage Gas of Others			
49	Other Gas Revenues	306-307		
50	Gas Operation and Maintenance Expenses	308		
51	Exchange and Imbalance Transactions	317-325		
52	Gas Used in Utility Operations	328		
53	Transmission and Compression of Gas by Others	331		
54	Other Gas Supply Expenses	332		
55	Miscellaneous General Expenses-Gas	334		
56	Depreciation, Depletion, and Amortization of Gas Plant	335		
57	Particulars Concerning Certain income Deduction and Interest Charges Accounts	336-338 340		
	COMMON SECTION			
58	Regulatory Commission Expenses			
59	Distribution of Salaries and Wages	350-351		
60	Charges for Outside Professional and Other Consultative Services	354-355 357		
	GAS PLANT STATISTICAL DATA			
61	Compressor Stations	508-509		
62	Gas Storage Projects	512-513		
63	Transmission Lines	514		
64	Transmission System Peak Deliveries	518		
65	Auxiliary Peaking Facilities	519		
66	Gas Account-Natural Gas	520		
67	System Map	522		
68	Footnote Reference	551		
69	Footnote Text	552		
70	Stockholders' Reports (check appropriate box) ☐ Four copies will be submitted ☐ No annual report to stockholders is prepared			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -126-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stock Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	*(Less)* Discount on Capital Stock (213)	254		
10	*(Less)* Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215 1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	118-119		
13	*(Less)* Reacquired Capital (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	118 (a) (b)		
15	TOTAL Proprietary Capital (Total of line 2 thru 14)			
16	LONG TERM DEBT			
17	Bonds (221)	256-257		
18	*(Less)* Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-Term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	258-259		
22	(Less) Unamortized Discount on Long-Term Debt-Dr (226)	258-259		
23	(Less) Current Portion of Long-Term Debt			
24	TOTAL Long-Term Debt (Total of lines 17 thru 23)			
25	OTHER NONCURRENT LIABILITIES			
26	Obligations Under Capital Leases -- Noncurrent (227)			
27	Accumulated Provision for Property Insurance (228 1)			
28	Accumulated provision for Injuries and Damages (228 2)			
29	Accumulated Provision for Pensions and Benefits (228 3)			
30	Accumulated Miscellaneous Operating Provision (228 4)			
31	Accumulated Provision for Rate Refunds (229)			
32	Asset Retirement Obligations (230)			
33	TOTAL Other Noncurrent Liabilities (total of lines 26 thru 32)			

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, ____

COMPARATIVE BALANCE SHEET (ASSETS AND OTHER DEBITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
34	CURRENT AND ACCRUED LIABILITIES			
35	Current Portion of Long-Term Debt			
36	Notes Payable (231)			
37	Accounts Payable (232)			
38	Notes Payable to Associated Companies (233)			
39	Accounts Payable to Associated Companies (234)			
40	Customer Deposits (235)			
41	Taxes Accrued (236)	262-263		
42	Interest Accrued (237)			
43	Dividends Declared (238)			
44	Matured Long-Term Debt (239)			
45	Matured Interest (240)			
46	Tax Collections Payable (241)			
47	Miscellaneous Current and Accrued Liabilities (242)	268		
48	Obligations Under Capital Leases -- Current (243)			
49	Derivative Instrument Liabilities (244)			
50	Derivative Instrument Liabilities - Hedges (245)			
51	TOTAL Current and Accrued Liabilities (Total of lines 35 thru 50)			
52	DEFERRED CREDITS			
53	Customer Advances for Construction (252)			
54	Accumulated Deferred Investment Tax Credits (255)			
55	Deferred Gains from Disposition of Utility Plant (256)			
56	Other Deferred Credits (253)	269		
57	Other Regulatory Liabilities (254)	278		
58	Unamortized Gain on Reacquired Debt (257)	260		
59	Accumulated Deferred Income Taxes (281-283)			
60	TOTAL Deferred Credits (Total of lines 53 thru 59)			
61	TOTAL Liabilities and Other Credits (Total of lines 15, 24, 33, 51, and 60)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -128-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR

1 Report amounts for accounts 412 and 413, *Revenue and Expenses from Utility Plant Leased to Others,* in another utility column (i,j) in a similar manner to a utility department Spread the amount(s) over lines 2 thru 24 as appropriate Include these amounts in columns (c) and (d) totals

2 Report amounts in discount 414, *Other Utility Operating Income,* in the same manner as accounts 412 and 413 above

3 Report data for lines 7, 9, and 10 for Natural Gas companies using accounts 404.1, 404.2, 404.3, 407 1, and 407. 2

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
1	UTILITY OPERATING INCOME			
2	Gas Operating Revenues (400}	300-301		
3	Operating Expenses			
4	Operation Expenses (401)	317-325		
5	Maintenance Expenses (402)	317-325		
6	Depreciation Expenses (403)	336-338		
7	Depreciation Expense for Asset Retirement Costs (403.1)	336-338		
8	Amortization and Depletion of Utility Plant (404-405)	336-338		
9	Amortization of Utility Plant Acu Adjustment (406)	336-338		
10	Amortization of Property Losses, Unrecovered Plant and Regulatory Study Costs (407.1)			
11	Amortization of Conversion Expenses (407.2)			
12	Regulatory Debits (407.3)			
13	(Less) Regulatory Credits (407.4)			
14	Taxes Other than Income Taxes (408.1)	262-263		
15	Income Taxes -- Federal (409.1)	262-263		
16	Income Taxes -- Other (409.1)	262-263		
17	Provision of Deferred Income Taxes (410.1)	234-235		
18	(Less) Provision for Deferred Income Taxes -- Credit (411.1)	234-235		
19	Investment Tax Credit Adjustment -- Net (411.4)			
20	(Less) Gains from Disposition of Utility Plant (411.6)			
21	Losses from Disposition of Utility Plant (411.7)			
22	(Less) Gains from Disposition of Allowances (411.8)			
23	Losses from Disposition of Allowances (411.9)			
24	Accretion Expense (411.10)			
25	TOTAL Utility Operating Expenses (Total of lines 4 thru 24)			
26	Net Utility Operating Income (Total of lines 2 less 24) (Carry forward to page 116, line 27)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -129-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
27	Net Utility Operating Income (Carrier forward from page 114)			
28	OTHER INCOME AND DEDUCTIONS			
29	Other Income			
30	Nonutility Operating Income			
31	Revenues form Merchandising, Jobbing and Contract Work (415)			
32	*(Less)* Costs and Expenses of Merchandising, Jobbing & Contract Work (416)			
33	Revenues from Nonutility Operations (417)			
34	*(Less)* Expenses of Nonutility Operations (417.1)			
35	Nonoperating Rental Income			
36	Equity in Earnings of Subsidiary Companies (418.1)	119		
37	Interest and Dividend Income (419)			
38	Allowance for Other Funds Used During Construction (419.1)			
39	Miscellaneous Nonoperating Income (421)			
40	Gain on Disposition of Property (421.1)			
41	TOTAL Other Income (Total of lines 31 thru 40)			
42	Other Income Deductions			
43	Loss on Disposition of Property (421.2)			
44	Miscellaneous Amortization (425)			
45	Miscellaneous Income Deductions (426.1 thru 426.5)	340		
46	TOTAL Other Income Deductions (Total of lines 43 thru 45)	340		
47	Taxes Applicable to Other Income and Deductions			
48	Taxes Other than Income Taxes (406.2)	262-263		
49	Income Taxes -- Federal (409.2)	262-263		
50	Income Taxes -- Other (409.2)	262-263		
51	Provision for Deferred Income Taxes (410.2)	234-235		
52	*(Less)* Provision for Deferred Income Taxes- Credit (411.2)	234-235		
53	Investment Tax Credit Adjustments--Net (411.5)			
54	*(Less)* Investment Tax Credits (420)			
55	TOTAL Taxes on Other Income and Deductions (Total of lines 48-54)			
56	Net Other Income and Deductions (Total of lines 41, 46, and 55)			
57	INTEREST CHARGES			
58	Interest on Long-Term Debt (427)			
59	Amortization of Debt Discount and Expense (428)	258-259		
60	Amortization of Loss on Reacquired Debt (428.1)			
61	*(Less)* Amortization of Premium on Debt-Credit (429)	258-259		
62	*(Less)* Amortization of Gain on Reacquired Debt- Credit (429.1)			
63	Interest on Debt to Associated Companies (430)	340		
64	Other Interest Expense (431)	340		
65	(Less) Allowance for Borrowed Funds Used During Construction-Credit (432)			
66	Net Interest Charges (Total of lines 58 thru 65)			
67	Income Before Extraordinary Items (Total of lines 27, 56 and 66)			
68	EXTRAORDINARY ITEMS			
69	Extraordinary Income (434)			
70	*(Less)* Extraordinary Deductions (435)			
71	Net Extraordinary Items (Total of line 69 less 70)			
72	Income Taxes--Federal and Other (409.3)	262-263		
73	Extraordinary Items after Taxes (Total of line 71 less line 72)			
74	Net Income (Total of lines 67 and 73)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -130-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GAS PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106)

1 Report below the original cost of gas plant in service according to the prescribed accounts
2 In addition to Account 101, *Gas Plant in Service (Classified)*, this page and the next include Account 102, Gas Plant Purchased or Sold, Account 103, Experimental Gas Plant Unclassified, and Account 106, Complete Construction Not Classified-Gas
3 Include in column © and (d), as appropriate corrections of additions and retirements for the current or preceding year
4. Include subsequent measurement revisions to the asset retirement costs capitalized in column (e) adjustments
5. Enclose in parenthesis credit adjustments of plant accounts to indicate the negative effect of such accounts
6. Classify Account 106 according to prescribed accounts, on an estimated basis if necessary, and include the entries in column (c) Also to be included in column (c) are entries for reversals of tentative distributions of prior year reported in column (b) Like wise, if the respondent has a significant amount of plant retirement which have not been classified to primary accounts at the end of the year, include in column (d) a tentative distribution of such retirement, on an estimated basis, with appropriate contra entry to the account for accumulated depreciation provision Include also in column (d) reversals of tentative distributions of prior year's unclassified retirement Attach supplemental statement showing the account distributions of these tentative classifications in column (c) and (d),

Line No	Account (a)	Balance at Beginning of Year (b)	Additions (c)
1	INTANGIBLE PLANT		
2	301 Organization		
3	302 Franchises and Consents		
4	303 Miscellaneous Intangible Plant		
5	TOTAL Intangible Plant (Enter Total of lines 2 thru 4)		
6	PRODUCTION PLANT		
7	Natural Gas Production and Gathering Plant		
8	325.1 Producing Lands		
9	325.2 Producing Leaseholds		
10	325.3 Gas Rights		
11	325.4 Rights-of-Way		
12	325.5 Other Land and Land Rights		
13	326 Gas Well Structures		
14	327 Field Compressor Station Structures		
15	328 Field Measuring and Regulating Station Equipment		
16	329 Other Structures		
17	330 Producing Gas Wells-Well Construction		
18	331 Producing Gas Wells-Well Equipment		
19	332 Field Lines		
20	333 Field Compressor Station Equipment		
21	334 Field Measuring and Regulating Station Equipment		
22	335 Drilling and Cleaning Equipment		
23	336 Purification Equipment		
24	337 Other Equipment		
25	338 Unsuccessful Exploration and Development Costs		
26	339 Asset Retirement Costs for Natural Gas Production and Gathering Plant		
27	TOTAL Production and Gathering Plant (Enter Total of lines 8 thru 26)		
28	PRODUCTS EXTRACTION PLANT		
29	340 Land and Land Rights		
30	341 Structures and Improvements		
31	342 Extraction and Refining Equipment		
32	343 Pipe Lines		
33	344 Extracted Products Storage Equipment		
34	345 Compressor Equipment		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -131-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GAS PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106) (Continued)

Line No	Account (a)	Balance at Beginning of Year (b)	Additions (c)
35	346 Gas Measuring and Regulating Equipment		
36	347 Other Equipment		
37	348 Asset Retirement Costs for Products Extraction Plant		
38	TOTAL Products Extraction Plant (Enter Total of lines 29 thru 37)		
39	TOTAL Natural Gas Production Plant (Enter Total of lines 27 and 38)		
40	Manufactured Gas Production Plant *(Submit Supplementary Statement)*		
41	TOTAL Production Plant (Enter Total of lines 39 and 40)		
42	NATURAL GAS STORAGE AND PROCESSING PLANT		
43	Underground Storage Plant		
44	350.1 Land		
45	350.2 Rights-of-Way		
46	351 Structures and Improvements		
47	352 Wells		
48	352.1 Storage Leaseholds and Rights		
49	352.2 Reservoirs		
50	352.3 Non-recoverable Natural Gas		
51	353 Lines		
52	354 Compressor Station Equipment		
53	355 Measuring and Regulating Equipment		
54	356 Purification Equipment		
55	357 Other Equipment		
56	358 Asset Retirement Costs for Underground Storage Plant		
57	TOTAL Underground Storage Plant (Enter Total of lines 43 thru 56)		
58	359 Other Storage Plant		
59	360 Land and Land Rights		
60	361 Structures and Improvements		
61	362 Gas Holders		
62	363 Purification Equipment		
63	363.1 Liquefaction Equipment		
64	363.2 Vaporizing Equipment		
65	363.2 Compressor Equipment		
66	363.4 Measuring and Regulating Equipment		
67	363.5 Other Equipment		
68	363.6 Asset Retirement Costs for Other Storage Plant		
69	TOTAL Other Storage Plant (Enter Total of lines 58 thru 68)		
70	Base Load Liquefied Natural Gas Terminaling and Processing Plant		
71	364.1 Land and Land Rights		
72	364.2 Structures and Improvements		
73	364.3 LNG Processing Terminal Equipment		
74	364.4 LNG Transportation Equipment		
75	364.5 Measuring and Regulating Equipment		
76	364.6 Compressor Station Equipment		
77	364.7 Communications Equipment		
78	364.8 Other Equipment		
79	364.9 Asset Retirement Costs for Base Load Liquefied Natural Gas Terminaling and Processing Plant		
80	TOTAL Base Load Liquefied Natural Gas Terminaling and Processing Plant (Lines 71 thru 79)		
81	TOTAL Natural Gas Storage and Processing Plant (Total of lines 57, 69 and 80)		
82	TRANSMISSION PLANT		
83	365,1 Land and Land Rights		
84	365.2 Right-of-Way		
85	366 Structures and Improvements		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -132-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GAS PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106) (Continued)

Line No	Account (a)	Balance at Beginning of Year (b)	Additions (c)
86	367 Mains		
87	368 Compressor Station Equipment		
88	369 Measuring and Regulating Station Equipment		
89	370 Communication Equipment		
90	371 Other Equipment		
91	372 Asset Retirement Costs for Transmission Plant		
92	TOTAL Transmission Plant (Enter Totals of lines 83 thru 91)		
93	DISTRIBUTION PLANT		
94	374 Land and Land Rights		
95	375 Structures and Improvements		
96	376 Mains		
97	377 Compressor Station Equipment		
98	378 Measuring and Regulating Station Equipment-General		
99	379 Measuring and Regulating Station Equipment-City Gate		
100	380 Services		
101	381 Meters		
102	382 Meter Installations		
103	383 House Regulators		
104	384 House Regulator Installations		
105	385 Industrial Measuring and Regulating Station Equipment		
106	386 Other Property on Customers' Premises		
107	387 Other Equipment		
108	388 Asset Retirement Costs for Distribution Plant		
109	TOTAL Distribution Plant (Enter Total of lines 94 thru 108)		
1110	GENERAL PLANT		
111	389 Land and Land Rights		
112	390 Structures and Improvements		
113	391 Office Furniture and Equipment		
114	392 transportation Equipment		
115	393 Stores Equipment		
116	394 Tools, Shop, and Garage Equipment		
117	395 Laboratory Equipment		
118	396 Power Operated Equipment		
119	397 Communication Equipment		
120	398 Miscellaneous Equipment		
121	Subtotal (Enter Total of lines 111 thru 120)		
122	399 Other Tangible Property		
123	399.1 Asset Retirement Costs for General Plant		
124	TOTAL General Plant (Enter Total of lines 121, 122 and 123)		
125	TOTAL (Accounts 101 and 106)		
126	Gas Plant Purchased (See Instruction 8)		
127	*(Less)* Gas Plant Sold (See Instruction 8)		
128	Experimental Gas Plant Unclassified		
129	TOTAL Gas Plant in Service (Enter Total of lines 125 thru 128)		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -133-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ACCUMULATED PROVISION FOR DEPRECIATION OF GAS UTILITY PLANT (ACCOUNT 108)

1 Explain in a footnote any important adjustments during year
2 Explain in a footnote any difference between the amount for book cost of plant retired, line 11, column (c), and that reported for gas plant in service, page 204-209, column (d), excluding retirements of nondepreciable property
3 The provisions of Account 108 in the Uniform System of Accounts require that retirements of depreciable plant be recorded when such plant is removed from service If the respondent has a significant amount of plant retired at year end which had not been recorded and/or classified to the various reserve functional classifications, make preliminary closing entries to tentatively functionalize the book cost of the plant retired In addition, include all costs included in retirement work in progress at year end in the appropriate functional classifications
4 Show separately interest credits under a sinking fund or similar method of depreciation accounting
5 At lines 8 and 15, add rows as necessary to report all data Additional rows should be numbered in sequence, e g, 8. 01, 8.02, etc.

Line No	Item (a)	Total (c + d + e) (b)	Gas Plant in Service (c)	Gas Plant Heid for Future Use (d)	Gas Plant Leased to Others (e)
	Section A. BALANCES AND CHANGES DURING YEAR				
1	Balance Beginning of Year				
2	Depreciation Provisions for Year, Charged to				
3	(403) Depreciation Expense				
4	(403.1) Depreciation Expense for Asset Retirement Costs				
5	(413) Expense of Gas Plant Leased to Others				
6	Transportation Expenses - Clearing				
7	Other Clearing Accounts				
8	Other Clearing (Specify):				
8.01					
9	TOTAL Depreciation Provision For Year (Total of Lines 3 thru 8)				
10	Net Charges for Plant Retired:				
11	Book Cost of Plant Retired				
12	Cost of Removal				
13	Salvage (Credit)				
14	TOTAL Net Charges for Plant Retirements (Total of Lines 11 thru13)				
15	Other Debit or Credit Items (Describe):				
15.01					
16	Book Cost of Asset Retirement Costs				
17	Balance End of Year (Total of lines 1, 9, 14, 15, and16)				
	Section B. BALANCES AT END OF YEAR ACCORDING TO FUNCTIONAL CLASSIFICATIONS				
18	Productions-Manufactured Gas				
19	Production and Gathering -Natural Gas				
20	Products Extraction-Natural Gas				
21	Underground Gas Storage				
22	Other Storage Plant				
23	Base Load LNG Terminating and Processing Plant				
24	Transmission				
25	Distribution				
26	General				
27	TOTAL (Total of lines 18 thru 26)				

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -134-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

DEPRECIATION, DEPLETION, AND AMORTIZATION OF GAS PLANT (ACCOUNTS 403, 403.1, 404 1, 404 2, 404 3, 405) *(Except Amortization of Acquisition Adjustments)*

1 Report in Section A the amounts of depreciation expense depletion and amortization for the accounts indicated and classified according to the plant functional groups shown

2 Report in Section B, column (b) all depreciable or amortizable plant balances to which rates are applied and show a composite total (If more desirable, report by plant account, subaccount or functional classifications other than those pre-printed in column (a) Indicate in a footnote the manner in which column (b) balances are

Section A. Summary of Depreciation, Depletion, and Amortization Charges

Line No	Functional Classification (a)	Depreciation Expense (Account 403) (b)	Depreciation Expense for Asset Retirement Costs (Account 403.1) (c)	Amortization and Depletion of Production Natural Gas Land and Land Rights (Account 404.1) (d)	Amortization of Underground Storage Land and Land Rights (Account 404.2) (e)
1	Intangible plant				
2	Production plant, manufactured gas				
3	Production and gathering plant, natural gas				
4	Products extraction plant				
5	Underground gas storage plant				
6	Other storage plant				
7	Base load LNG terminaling and processing plant				
8	Transmission plant				
9	Distribution plant				
10	General plant				
11	Common plant-gas				
12	TOTAL				

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -135-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

DEPRECIATION, DEPLETION, AND AMORTIZATION OF GAS PLANT (ACCOUNTS 403, 403.1 404 1, 404 2, 404 3, 405) *(Except Amortization of Acquisition Adjustments)* (Continued)

obtained If average balances are used, state the method of averaging used For column (c) report available information for each plant functional classification listed in column (a) If composite depreciation accounting is used, report available information called for in columns (b) and (d) on this basis Where the unit-of-production method is used to determine depreciation charges, shown in a footnote any revisions made to estimated gas reserves.

3 If provisions for depreciation were made during the year in addition to depreciation provided by application of reported rates, state in a footnote the amounts and nature of the provisions and the plant items to which related.

Section A. Summary of Depreciation, Depletion, and Amortization Charges

Amortization of Other Limited-term Gas Plant (Account 404 3) (f)	Amortization of Other Gas Plant (Account 405) (g)	Total (b to g) (h)	Functional Classification (a)	Line No
			Intangible plant	1
			Production plant, manufactured gas	2
			Production and gathering plant, natural gas	3
			Products extraction plant	4
			Underground gas storage plant	5
			Other storage plant	6
			Base Load LNG terminaling and processing plant	7
			Transmission plant	8
			Distribution plant	9
			General plant	10
			Common plant-gas	11
			TOTAL	12

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -136-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of R eport (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
1	PROPRIETARY CAPITAL			
2	Common Stock Issued (201)	250-251		
3	Preferred Stock Issued (204)	250-251		
4	Capital Stock Subscribed (202, 205)	252		
5	Stock Liability for Conversion (203, 206)	252		
6	Premium on Capital Stock (207)	252		
7	Other Paid-In Capital (208-211)	253		
8	Installments Received on Capital Stock (212)	252		
9	*(Less)* Discount on Capital Stock (213)	254		
10	*(Less)* Capital Stock Expense (214)	254		
11	Retained Earnings (215, 215 1, 216)	118-119		
12	Unappropriated Undistributed Subsidiary Earnings (216.1)	118-119		
13	*(Less)* Reacquired Capital (217)	250-251		
14	Accumulated Other Comprehensive Income (219)	117		
15	TOTAL Proprietary Capital (Total of line 2 thru 14)			
16	LONG TERM DEBT			
17	Bonds (221)	256-257		
18	*(Less)* Reacquired Bonds (222)	256-257		
19	Advances from Associated Companies (223)	256-257		
20	Other Long-Term Debt (224)	256-257		
21	Unamortized Premium on Long-Term Debt (225)	258-259		
22	(Less) Unamortized Discount on Long-Term Debt-Dr (226)	258-259		
23	(Less) Current Portion of Long-Term Debt			
24	TOTAL Long-Term Debt (Total of lines 17 thru 23)			
25	OTHER NONCURRENT LIABILITIES			
26	Obligations Under Capital Leases -- Noncurrent (227)			
27	Accumulated Provision for Property Insurance (228.1)			
28	Accumulated provision for Injuries and Damages (228.2)			
29	Accumulated Provision for Pensions and Benefits (228.3)			
30	Accumulated Miscellaneous Operating Provision (228.4)			
31	Accumulated Provision for Rate Refunds (229)			
32	Asset Retirement Obligations (230)			
33	TOTAL Other Noncurrent Liabilities (Total of lines 26 thru 32)			

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

COMPARATIVE BALANCE SHEET (LIABILITIES AND OTHER CREDITS) (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
34	CURRENT AND ACCRUED LIABILITIES			
35	Current Portion of Long-Term Debt			
36	Notes Payable (231)			
37	Accounts Payable (232)			
38	Notes Payable to Associated Companies (233)			
39	Accounts Payable to Associated Companies (234)			
40	Customer Deposits (235)			
41	Taxes Accrued (236)	262-263		
42	Interest Accrued (237)			
43	Dividends Declared (238)			
44	Matured Long-Term Debt (239)			
45	Matured Interest (240)			
46	Tax Collections Payable (241)			
47	Miscellaneous Current and Accrued Liabilities (242)	268		
48	Obligations Under Capital Leases -- Current (243)			
49	Derivative Instrument Liabilities (244)			
50	Derivative Instrument Liabilities - Hedges (245)			
51	TOTAL Current and Accrued Liabilities (Total of lines 35 thru 50)			
52	DEFERRED CREDITS			
53	Customer Advances for Construction (252)			
54	Accumulated Deferred Investment Tax Credits (255)			
55	Deferred Gains from Disposition of Utility Plant (256)			
56	Other Deferred Credits (253)	269		
57	Other Regulatory Liabilities (254)	278		
58	Unamortized Gain on Reacquired Debt (257)	260		
59	Accumulated Deferred Income Taxes (281-283)			
60	TOTAL Deferred Credits (Total of lines 53 thru 59)			
61	TOTAL Liabilities and Other Credits (Total of lines 15, 24, 33, 51, and 60)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -138-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR

1 Report amounts for accounts 412 and 413, *Revenue and Expenses from Utility Plant Leased to Others,* in another utility column (i,j) in a similar manner to a utility department. Spread the amount(s) over lines 2 thru 26 as appropriate. Include these amounts in columns (c) and (d) totals

2 Report amounts in discount 414, *Other Utility Operating Income,* in the same manner as accounts 412 and 413 above

3 Report data for lines 8, 10, and 11 for Natural Gas companies using accounts 404 1, 404 2, 404.3, 407.1, and 407.2

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
1	UTILITY OPERATING INCOME			
2	Gas Operating Revenues (400)	300-301		
3	Operating Expenses			
4	Operation Expenses (401)	317-325		
5	Maintenance Expenses (402)	317-325		
6	Depreciation Expense (403)	336-338		
7	Depreciation Expense for Asset Retirement Costs (403.1)	336-338		
8	Amortization and Depletion of Utility Plant (404-405)	336-338		
9	Amortization of Utility Plant Acquisition Adjustment (406)	336-338		
10	Amort of Prop Losses, Unrecovered Plant and Reg Study Costs (407.1)			
11	Amortization of Conversion Expenses (407.2)			
12	Regulatory Debits (407.3)			
13	(Less) Regulatory Credits (407.4)			
14	Taxes Other than Income Taxes (408.1)	262-263		
15	Income Taxes -- Federal (409.1)	262-263		
16	Income Taxes -- Other (409.1)	262-263		
17	Provision of Deferred Income Taxes (410.1)	234-235		
18	(Less) Provision for Deferred Income Taxes -- Credit (411.1)	234-235		
19	Investment Tax Credit Adjustment -- Net (411.4)			
20	(Less) Gains from Disposition of Utility Plant (411.6)			
21	Losses from Disposition of Utility Plant (411.7)			
22	(Less) Gains from Disposition of Allowances (411.8)			
23	Losses from Disposition of Allowances (411.9)			
24	Accretion Expense (411.10)			
25	TOTAL Utility Operating Expenses (Total of lines 4 thru 24)			
26	Net Utility Operating Income (Total of lines 2 less 25) (Carry forward to page 116, line 27)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -139-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR (Continued)

4 Explain in a footnote if the previous year's figures are different from those reported in prior reports

5 If the columns are insufficient for reporting additional utility departments, supply the appropriate account titles, lines 2 to 26, and report the information on page 122 or in a supplemental statement.

Electric Utility Current Yea {in dollars)	Electric Utility Previous Year (in dollars)	Gas Utility Current Year (In dollars)	Gas Utility Current Year (in dollars)	Other Utility Current Tear (in dollars)	Other Utility Previous Year (in dollars)	
						1
						2
						3
						4
						5
						6
						7
						8
						9
						10
						11
						12
						13
						14
						15
						16
						17
						18
						19
						20
						21
						22
						23
						24
						25
						26

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -140-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

STATEMENT OF INCOME FOR THE YEAR (Continued)

Line No.	Title of Account (a)	Reference Page Number (b)	Balance at End of Current Year (in dollars) (c)	Balance at End of Previous Year (in dollars) (d)
27	Net Utility Operating Income (Carrier forward from page 114)			
28	OTHER INCOME AND DEDUCTIONS			
29	Other Income			
30	Nonutility Operating Income			
31	Revenues form Merchandising, Jobbing and Contract Work (415)			
32	*(Less)* Costs and Expense of Merchandising, Job & Contract Work (415.1)			
33	Revenues from Nonutility Operations (417)			
34	*(Less)* Expenses of Nonutility Operations (417.1)			
35	Nonoperating Rental Income			
36	Equity in Earnings of Subsidiary Companies (418.1)	119		
37	Interest and Dividend Income (419)			
38	Allowance for Other Funds Used During Construction (419.1)			
39	Miscellaneous Nonoperating Income (421)			
40	Gain on Disposition of Property (421.1)			
41	TOTAL Other Income (Total of lines 29 thru 40)			
42	Other Income Deductions			
43	Loss on Disposition of Property (421 2)			
44	Miscellaneous Amortization (425)			
45	Miscellaneous Income Deductions (426.1 thru 426.5)	340		
46	TOTAL Other Income Deductions (Total of lines 43 thru 45)	340		
47	Taxes Applicable to Other Income and Deductions			
48	Taxes Other than Income Taxes (406.2)	262-263		
49	Income Taxes -- Federal (409.2)	262-263		
50	Income Taxes -- Other (409.2)	262-263		
51	Provision for Deferred Income Taxes (410.2)	234-235		
52	*(Less)* Provision for Deferred Income Taxes-Credit (410. 2)	234-235		
53	Investment Tax Credit Adjustments--Net (411.5)			
54	*(Less)* Investment Tax Credits (420)			
55	TOTAL Taxes on Other Income and Deductions (Total of lines 48-54)			
56	Net Other Income and Deductions (Total of lines 41, 46, and 55)			
57	INTEREST CHARGES			
58	Interest on Long-Term Debt (427)			
59	Amortization of Debt Disc and Expense (428)	258-259		
60	Amortization of Loss on Reacquired Debt (428.1)			
61	*(Less)* Amortization of Premium on Debt-Credit (429)	258-259		
62	*(Less)* Amortization of Gain on Reacquired Debt-Credit (429.1)			
63	Interest on Debt to Associated Companies (430)	340		
64	Other Interest Expense (431)	340		
65	(Less) Allowance for Borrowed Funds Used During Construction- Credit			
66	Net Interest Charges (Total of lines 58 thru 65)			
67	Income Before Extraordinary Items (Total of lines 27, 56 and 66)			
68	EXTRAORDINARY ITEMS			
69	Extraordinary Income (434)			
70	*(Less)* Extraordinary Deductions (435)			
71	Net Extraordinary Items (Total of line 69 less 70)			
72	Income Taxes--Federal and Other (409.3)	262-263		
73	Extraordinary Items after Taxes (Total of line 71 less line 72)			
74	Net Income (Total of lines 67and 73)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -141-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GAS PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106)

1 Report below the original cost of gas plant in service according to the prescribed accounts.
2 In addition to Account 101, *Gas Plant in Service (Classified)*, this page and the next include Account 102, Gas Plant Purchased or Sold, Account 103, Experimental Gas Plant Unclassified, and Account 106, Completed Construction Not Classified-Gas.
3 Include in column (c) and (d), as appropriate corrections of additions and retirements for the current or preceding year
4. For subsequent measurement revisions to initial asset retirement costs capitalized include any net increase or net decrease amount by primary plant account for the asset retirement costs in column (c) additions.
4 Enclose in parenthesis credit adjustments of plant accounts to indicate the negative effect of such accounts

5 Classify Account 106 according to prescribed accounts, on an estimated basis if necessary, and include the entries in column (c) Also to be included in column (c) are entries for reversals of tentative distributions of prior year reported in column (b) Like wise, if the respondent has a significant amount of plant retirement which have not been classified to primary accounts at the end of the year, include in column (d) a tentative distribution of such retirement, on an estimated basis, with appropriate contra entry to the account for accumulated depreciation provision Include also in column (d) reversals of tentative distributions of prior year's unclassified retirement Attach supplemental statement showing the account distributions of these tentative classifications in column (c) and (d),

Line No	Account (a)		Balance at Beginning of Year (b)	Additions (c)
1	INTANGIBLE PLANT			
2	301	Organization		
3	302	Franchises and Consents		
4	303	Miscellaneous Intangible Plant		
5	TOTAL Intangible Plant (Enter Total of lines 2 thru 4)			
6	PRODUCTION PLANT			
7	Natural Gas Production and Gathering Plant			
8	325.1	Producing Lands		
9	325.2	Producing Leaseholds		
10	325.3	Gas Rights		
11	325.4	Rights-of-Way		
12	325.5	Other Land and Land Rights		
13	326	Gas Well Structures		
14	327	Field Compressor Station Structures		
15	328	Field Measuring and Regulating Station Equipment		
16	329	Other Structures		
17	330	Producing Gas Wells-Well Construction		
18	331	Producing Gas Wells-Well Equipment		
19	332	Field Lines		
20	333	Field Compressor Station Equipment		
21	334	Field Measuring and Regulating Station Equipment		
22	335	Drilling and Cleaning Equipment		
23	336	Purification Equipment		
24	337	Other Equipment		
25	338	Unsuccessful Exploration and Development Costs		
26	339	Asset Retirement Costs for Natural Gas Production & Gathering Plant		
27	TOTAL Production and Gathering Plant (Enter Total of lines 8 thru 26)			
28	PRODUCTS EXTRACTION PLANT			
29	340	Land and Land Rights		
30	341	Structures and Improvements		
31	342	Extraction and Refining Equipment		
32	343	Pipe Lines		
33	344	Extracted Products Storage Equipment		
34	345	Compressor Equipment		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -142-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106 (Continued)

including the reversals of the prior years tentative account distributions of these amounts Careful observance of the above instructions and the texts of Account 101 and 106 will avoid serious omissions of respondent's reported amount for plant actually in service at end of year.

7. Show in column (f) reclassifications or transfers within utility plant accounts Include also in column (f) the additions or reductions of primary account classifications arising from distribution of amounts initially recorded in Account 102. In showing the clearance of Account 102, include in column (e) the amounts with respect to accumulated provision for depreciation, acquisition adjustments, etc., And show in column (f) only the offset to the debits or credits to primary account classifications

8. For Account 399, state the nature and use of plant included in this account and if substantial in amount submit a supplementary statement showing subaccount classification of such plant conforming to the requirements of these pages

9. For each amount comprising the reported balance and changes in Account 102, state the property purchased or sold, name of vendor or purchaser, and date of transaction If proposed journal entries have been filed with the commission as required by the Uniform System of Accounts, give date of such filing.

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)	Line No
				1
				2
				3
				4
				5
				6
				7
				8
				9
				10
				11
				12
				13
				14
				15
				16
				17
				18
				19
				20
				21
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				24
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				27
				28
				29
				30
				31
				32
				33
				34

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -143-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GAS PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106) (Continued)

Line No	Account (a)	Balance at Beginning of Year (b)	Additions (c)
35	346 Gas Measuring and Regulating Equipment		
36	347 Other Equipment		
37	348 Asset Retirement Costs for Products Extraction Plant		
38	TOTAL Products Extraction Plant (Enter Total of lines 29 thru 37)		
39	TOTAL Natural Gas Production Plant (Enter Total of lines 27 and 38)		
40	Manufactured Gas Production Plant *(Submit Supplementary Statement)*		
41	TOTAL Production Plant (Enter Total of lines 39 and 40)		
42	NATURAL GAS STORAGE AND PROCESSING PLANT		
43	Underground Storage Plant		
44	350.1 Land		
45	350.2 Rights-of-Way		
46	351 Structures and Improvements		
47	352 Wells		
48	352.1 Storage Leaseholds and Rights		
49	352.2 Reservoirs		
50	352.3 Non-recoverable Natural Gas		
51	353 Lines		
52	354 Compressor Station Equipment		
53	355 Measuring and Regulating Equipment		
54	356 Purification Equipment		
55	357 Other Equipment		
56	358 Asset Retirement Costs for Underground Storage Plant		
57	TOTAL Underground Storage Plant (Enter Total of lines 44 thru 56)		
58	Other Storage Plant		
59	360 Land and Land Rights		
60	361 Structures and Improvements		
61	362 Gas Holders		
62	363 Purification Equipment		
63	363.1 Liquefaction Equipment		
64	363.2 Vaporizing Equipment		
65	363.2 Compressor Equipment		
66	363.4 Measuring and Regulating Equipment		
67	363.5 Other Equipment		
68	363.6 Asset Retirement Costs for Other Storage Plant		
69	TOTAL Other Storage Plant (Enter Total of lines 59 thru 68)		
70	Base Load Liquefied Natural Gas Terminating and Processing Plant		
71	364.1 Land and Land Rights		
72	364.2 Structures and Improvements		
73	364.3 LNG Processing Terminal Equipment		
74	364.4 LNG Transportation Equipment		
75	364.5 Measuring and Regulating Equipment		
76	364.6 Compressor Station Equipment		
77	364.7 Communications Equipment		
78	364.8 Other Equipment		
79	364.9 Asset Retirement Costs for Base Load Liquefied Natural Gas Terminaling and Processing Plant		
80	TOTAL Base Load Liquefied Natural Gas, Terminating and Processing Plant (Lines 71 thru 79)		
81	TOTAL Natural Gas Storage and Processing Plant (Total of lines 57, 69 and 80)		
82	TRANSMISSION PLANT		
83	365.1 Land and Land Rights		
84	365.2 Rights-of-Way		
85	366 Structures and Improvements		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -144-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GAS PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106) (Continued)

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)	Line No
				35
				36
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				40
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				43
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Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -145-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GAS PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106) (Continued)

Line No	Account (a)		Balance at Beginning of Year (b)	Additions (c)
86	367	Mains		
87	368	Compressor Station Equipment		
88	369	Measuring and Regulating Station Equipment		
89	370	Communication Equipment		
90	371	Other Equipment		
91	372	Asset Retirement Costs for Transmission Plant		
92		TOTAL Transmission Plant (Enter Totals of lines 83 thru 91)		
93		DISTRIBUTION PLANT		
94	374	Land and Land Rights		
95	375	Structures and Improvements		
96	376	Mains		
97	377	Compressor Station Equipment		
98	378	Measuring and Regulating Station Equipment-General		
99	379	Measuring and Regulating Station Equipment-City Gate		
100	380	Services		
101	381	Meters		
102	382	Meter Installations		
103	383	House Regulators		
104	384	House Regulator Installations		
105	385	Industrial Measuring and Regulating Station Equipment		
106	386	Other Property on Customers' Premises		
107	387	Other Equipment		
108	388	Asset Retirement Costs for Distribution Plant		
109		TOTAL Distribution Plant (Enter Total of lines 94 thru 108)		
110		GENERAL PLANT		
111	389	Land and Land Rights		
112	390	Structures and Improvements		
113	391	Office Furniture and Equipment		
114	392	transportation Equipment		
115	393	Stores Equipment		
116	394	Tools, Shop, and Garage Equipment		
117	395	Laboratory Equipment		
118	396	Power Operated Equipment		
119	397	Communication Equipment		
120	398	Miscellaneous Equipment		
121		Subtotal (Enter Total of lines 111 thru 120)		
122	399	Other Tangible Property		
123	399.1	Asset Retirement Costs for General Plant		
124		TOTAL General Plant (Enter Total of lines 121, 122 and 123)		
125		TOTAL (Accounts 101 and 106)		
126		Gas Plant Purchased (See Instruction 8)		
127		*(Less)* Gas Plant Sold (See Instruction 8)		
128		Experimental Gas Plant Unclassified		
129		TOTAL Gas Plant in Service (Enter Total of lines 125 thru 128)		

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -146-

Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

GAS PLANT IN SERVICE (ACCOUNTS 101, 102, 103, AND 106 (Continued)

Retirements (d)	Adjustments (e)	Transfers (f)	Balance at End of Year (g)	Line No
				86
				87
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Name of Respondent	This Report is: ☐ An Original ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec 31, _____

ACCUMULATED PROVISION FOR DEPRECIATION OF GAS UTILITY PLANT (ACCOUNT 108)

1 Explain in a footnote any important adjustments during year
2 Explain in a footnote any difference between the amount for book cost of plant retired, line 11, column (c), and that reported for gas plant in service, page 204-209, column (d), excluding retirements of nondepreciable property.
3 The provisions of Account 108 in the Uniform System of Accounts require that retirements of depreciable plant be recorded when such plant is removed from service If the respondent has a significant amount of plant retired at year end which had not been recorded and/or classified to the various reserve functional classifications, make preliminary closing entries to tentatively functionalize the book cost of the plant retired In addition, include all costs included in retirement work in progress at year end in the appropriate functional classifications
4 Show separately interest credits under a sinking fund or similar method of depreciation accounting
5 At lines 8 and 15, add rows as necessary to report all data Additional rows should be numbered in sequence, e g, 8.01, 8.02, etc.

Line No	Item (a)	Total (c + d + e) (b)	Gas Plant in Service (c)	Gas Plant Held for Future Use (d)	Gas Plant Leased to Others (e)
	Section A. BALANCES AND CHANGES DURING YEAR				
1	Balance Beginning of Year				
2	Depreciation Provisions for Year, Charged to				
3	(403) Depreciation Expense				
4	(403.1) Depreciation Expense for Asset Retirement Costs				
5	(413) Expense of Gas Plant Leased to Others				
6	Transportation Expenses - Clearing				
7	Other Clearing Accounts				
8	Other Clearing (Specify):				
8.01					
9	TOTAL Depreciation Provision For Year (Total of lines 3 thru 7)				
10	Net Charges for Plant Retired:				
11	Book Cost of Plant Retired				
12	Cost of Removal				
13	Salvage (Credit)				
14	TOTAL Net Charges for Plant Ret. (Total of lines 11 thru 13)				
15	Other Debit or Credit Items (Describe):				
15.01					
16	Book Cost of Asset Retirement Costs Retired				
17	Balance End of Year (Total of lines 1, 9, 14, 15 and 16)				
	Section B. BALANCES AT END OF YEAR ACCORDING TO FUNCTIONAL CLASSIFICATIONS				
18	Productions-Manufactured Gas				
19	Production and Gathering -Natural Gas				
20	Products Extraction-Natural Gas				
21	Underground Gas Storage				
22	Other Storage Plant				
23	Base Load LNG Terminating and Processing Plant				
24	Transmission				
25	Distribution				
26	General				
27	TOTAL (Total of lines 18 thru 26)				

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -148-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

LIST OF SCHEDULES

Enter in column (d) the terms "none," "not applicable," or "NA," as appropriate, where no information or amounts have been reported for certain pages. Omit pages where the responses are "none," "not applicable," or "NA."

Title of Schedule (a)	Reference Page No. (b)	Date Revised (c)	Remarks (d)
GENERAL CORPORATE INFORMATION AND FINANCIAL STATEMENTS			
General Information	101	ED 12-91	
Control Over Respondent	102	REV 12-95	
Companies Controlled by Respondent	103	NEW 12-95	
Principal General Officers	104	ED 12-91	
Directors	105	REV 12-95	
Important Changes During the Year	108-109	REV 12-95	
Comparative Balance Sheet Statement	110-113	REV 12-02	
Income Statement	114	REV 12-02	
Statement of Accumulated Comprehensive Income and Hedging Activities	115 (a) (b)	NEW 12-02	
Appropriated Retained Income	118	REV 12-95	
Unappropriated Retained Income Statement	119	REV 12-95	
Dividend Appropriations of Retained Income	119	REV 12-95	
Statement of Cash Flows	120-121	REV 12-95	
Notes to Financial Statements	122-123	REV 12-95	
BALANCE SHEET SUPPORTING SCHEDULES (Assets and Other Debts)			
Receivables From Affiliated Companies	200	REV 12-00	
General Instructions Concerning Schedules 202 thru 205	201	REV 12-95	
Investments in Affiliated Companies	202-203	ED 12-91	
Investments in Common Stocks of Affiliated Companies	204-205	ED 12-91	
Companies Controlled Directly by Respondent Other Than Through Title to Securities	204-205	ED 12-02	
Instructions for Schedules 212 Thru 217	211	REV 12-00	
Carrier Property	212-213	REV 12-02	
Undivided Joint Interest Property	214-215	REV 12-02	
Accrued Depreciation-Carrier Property	216	REV 12-02	
Accrued Depreciation-Undivided Joint Interest Property	217	REV 12-02	
Amortization Base and Reserve	218-219	REV 12-02	
Noncarrier Property	220	REV 12-00	
Other Deferred Charges	221	REV 12-00	
BALANCE SHEET SUPPORTING SCHEDULES (Liabilities and Other Credits)			
Payables to Affiliated Companies	225	REV 12-00	
Long-Term Debt	226-227	ED 12-00	
Analysis of Federal Income and Other Taxes Deferred	230-231	REV 12-00	
Capital Stock	250-251	REV 12-95	
Capital Stock Changes During the Year	252-253	ED 12-91	
Additional Paid-in Capital	254	ED 12-87	

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

COMPARATIVE BALANCE SHEET STATEMENT - LIABILITIES (Continued)

For instructions covering this schedule, see the text and instructions pertaining to Balance Sheet Accounts in the USofA. The entries in this balance sheet should be consistent with those in the supporting schedules on the pages indicated.

Line No.	Item (a)	Reference Page No. (b)	Balance at End of Current Year (In dollars) (c)	Balance at End of Previous Year (In dollars) (d)
	CURRENT LIABILITIES			
47	Notes Payable (50)			
48	Payables to Affiliated Companies (51)			
49	Accounts Payable (52)			
50	Salaries and Wages Payable (53)			
51	Interest Payable (54)			
52	Dividends Payable (55)			
53	Taxes Payable (56)			
54	Long - Term Debt - Payable Within One Year (57)	226-227		
55	Other Current Liabilities (58)			
56	Deferred Income Tax Liabilities (59)	230-231		
57	TOTAL Current Liabilities *(Total of lines 47 thru 56)*			
	NONCURRENT LIABILITIES			
58	Long-Term Debt - Payable After One Year (60)	226-227		
59	Unamortized Premium on Long-Term Debt (61)			
60	(Less) Unamortized Discount on Long-Term Debt-Dr. (62)			
61	Other Noncurrent Liabilities (63)			
62	Accumulated Deferred Income Tax Liabilities (64)	230-231		
63	Derivative Instrument Liabilities (65)			
64	Derivative Instrument Liabilities - Hedges (66)			
65	Asset Retirement Obligations (67)			
66	TOTAL Noncurrent Liabilities *(Total of lines 58 thru 65)*			
67	TOTAL Liabilities *(Total of lines 57 and 66)*			
	STOCKHOLDERS' EQUITY			
68	Capital Stock (70)	250-251		
69	Premiums on Capital Stock (71)			
70	Capital Stock Subscriptions (72)			
71	Additional Paid-In Capital (73)	254		
72	Appropriated Retained Income (74)	118		
73	Unappropriated Retained Income (75)	119		
74	(Less) Unrealized Loss on Noncarrier Marketable Equity-Securities (75.5)			
75	(Less) Treasury Stock (76)			
76	TOTAL Stockholders' Equity *(Total of lines 68 thru 75)*			
77	TOTAL Liabilities and Stockholders' Equity *(Total of lines 67 and 76)*			

INSTRUCTIONS FOR SCHEDULES 212-213

1.) Give an analysis of changes during the year in Account No. 30, *Carrier Property*, by carrier property accounts, excluding investments in undivided joint interest property reported on pages 214 and 215. The total carrier property reported on page 213 (column i, line 44) and the total undivided joint interest property reported on all pages 215 (column i, line 44) should represent all carrier property owned by the reporting entity at year end.

2.) Enter in column (c) the cost of newly constructed property, additions, and improvements made to existing property. Include amounts distributed to carrier property accounts during the year which were previously charged to Account No. 187, *Construction Work in Progress.* In column (d) enter expenditures for existing pipeline property purchased or otherwise acquired. Enter in column (e) - property sold, abandoned, or otherwise retired during the year. This will generally be a positive number, so that the calculation in column (f) works properly.

3.) If pipeline operating property was acquired from or sold to some other company during the year, footnote the acquisition or sale if it exceeded $250,000. Include the following in the footnote: the name of the company the property was acquired from or sold to, the mileage acquired or sold, and the date of acquisition or sale. Include termini, the original cost of property acquired from an affiliate or other common carrier (see Instruction 3-1, Property acquired, Instructions for Carrier Property Accounts in Uniform System of Accounts), and the cost of the property to the respondent. Also give the amount debited or credited to each company account representing such property acquired or disposed of.

4.) Enter in column (g) for each account the net of all other accounting adjustments, transfers, and clearances applicable to prior years' accounting.

5.) Explain fully each adjustment, clearance, or transfer in excess of $500,000 in a footnote. Explain transfers to or from Account No. 34, *Noncarrier Property,* in Schedule 219.

6.) Indicate in parenthesis any entry in columns (f), (g), or (h) which represents an excess of credits over debits.

INSTRUCTIONS FOR SCHEDULES 214-215

1.) Give an analysis of changes during the year in Account No. 30, *Carrier Property*, by carrier property accounts, for investments in undivided joint interest property. The respondent will only report its portion of the carrier property of any undivided joint interest pipeline in which it has an interest. If the respondent owns an interest in multiple undivided joint interest pipelines, prepare and submit a separate schedule 214-215 for each undivided joint interest pipeline in which it has an interest. If multiple schedules 214-215 are submitted, number all schedules subsequent to the first with a number and letter page designator (For example ... 214, 215; 214a, 215a; 214b, 215b; etc...).

2.) Enter in column (c) the cost of newly constructed property, additions, and improvements made to existing property. Include amounts distributed to carrier property accounts during the year which were previously charged to Account No. 187*Construction Work in Progress.* In column (d) enter expenditures for existing pipeline property purchased or otherwise acquired. Enter in column (e) property sold, abandoned, or otherwise retired during the year. This will generally be a positive number so that the calculation in column (f) works properly.

3.) If pipeline operating property was acquired from or sold to some other company during the year, footnote the acquisition or sale if it exceeded $250,000. Include the following in the footnote: the name of the company the property was acquired from or sold to, the mileage acquired or sold, and the date of acquisition or sale. Include termini, the original cost of property acquired from an affiliate or other common carrier (see Instruction 3-1, Property acquired, Instructions for Carrier Property Accounts in Uniform System of Accounts), and the cost of the property to the respondent. Also give the amount debited or credited to each company account representing such property acquired or disposed of.

4.) Enter in column (g) for each account the net of all other accounting adjustments, transfers, and clearances applicable to prior years' accounting.

5.) Explain fully each adjustment, clearance, or transfer in excess of $500,000 in a footnote. Explain transfers to or from Account No. 34, *Noncarrier Property,* in Schedule 219.

6.) Indicate in parenthesis any entry in columns (f), (g), or (h) which represents an excess of credits over debits.

INSTRUCTIONS FOR SCHEDULES 216-217

1.) On schedule 216, give an analysis of changes during the year in Account No. 31, *Accrued Depreciation - Carrier Property*, by carrier property accounts, excluding depreciation on undivided joint interest property reported on page 217.

On schedule 217, give an analysis of changes during the year in Account No. 31, *Accrued Depreciation - Carrier Property*, by carrier property accounts for property owned as part of an undivided joint interest pipeline. If the respondent owns an interest in multiple undivided joint interest pipelines, prepare and submit a separate schedule 217 for each undivided joint interest pipeline in which it has an interest. If multiple schedules 217 are submitted, number all schedules subsequent to the first with a number and letter page designator (For example ... 217, 217a, 217b, etc...).

2.) In column (c), enter debits by carrier property account to Account No. 540, *Depreciation and Amortization*, and 541, *Depreciation Expense for Asset Retirement Costs* , during the year.

3.) In column (d), enter all debits to Account No. 31, *Accrued Depreciation - Carrier Property*, during the year resulting from the retirement of carrier property.

4.) In column (e), enter the net of any other debits and credits made to Account No. 31, *Accrued Depreciation - Carrier Property*, during the year.

5.) If composite annual depreciation rates are prescribed, enter those in effect at the end of the year in column (g). If component rates are prescribed, the composite rates entered in column (g) should be computed from the charges developed for December by using the prescribed component rates. Whether component or composite rates are prescribed, the entries on lines 17, 34, 42, and 43 of column (g) should be computed from December depreciation charges.

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -151-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

CARRIER PROPERTY

Line No.	Account (a)	Balance at Beginning of Year (In dollars) (b)	PROPERTY CHANGES DURING THE YEAR (In dollars): Expenditures for New Construction, Additions, and Improvements (c)	Expenditures for Existing Property Purchased or Otherwise Acquired (d)
	GATHERING LINES			
1	Land (101)			
2	Right of Way (102)			
3	Line Pipe (103)			
4	Line Pipe Fittings (104)			
5	Pipeline Construction (105)			
6	Buildings (106)			
7	Boilers (107)			
8	Pumping Equipment (108)			
9	Machine Tools and Machinery (109)			
10	Other Station Equipment (110)			
11	Oil Tanks (111)			
12	Delivery Facilities (112)			
13	Communication Systems (113)			
14	Office Furniture and Equipment (114)			
15	Vehicles and Other Work Equipment (115)			
16	Other Property (116)			
17	Asset Retirement Costs for Gathering Lines (117)			
18	TOTAL *(Lines 1 thru 17)*			
	TRUNK LINES			
19	Land (151)			
20	Right of Way (152)			
21	Line Pipe (153)			
22	Line Pipe Fittings (154)			
23	Pipeline Construction (155)			
24	Buildings (156)			
25	Boilers (157)			
26	Pumping Equipment (158)			
27	Machine Tools and Machinery (159)			
28	Other Station Equipment (160)			
29	Oil Tanks (161)			
30	Delivery Facilities (162)			
31	Communication Systems (163)			
32	Office Furniture and Equipment (164)			
33	Vehicles and Other Work Equipment (165)			
34	Other Property (166)			
35	Asset Retirement Costs for Trunk Lines (167)			
36	TOTAL *(Lines 19 thru 35)*			
	GENERAL			
37	Land (171)			
38	Buildings (176)			
39	Machine Tools and Machinery (179)			
40	Communication Systems (183)			
41	Office Furniture and Equipment (184)			
42	Vehicles and Other Work Equipment (185)			
43	Other Property (186)			
44	Asset Retirement Costs for General Property (186.1)			
45	Construction Work in Progress (187)			
46	TOTAL (Lines 37 thru 45)			
47	GRAND TOTAL (Lines 18, 36 and 46)			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -152-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

CARRIER PROPERTY (Continued)

PROPERTY CHANGES DURING					
Property Sold, Abandoned, or Otherwise Retired During the Year *(e)*	Net (c + d - e) *(f)*	Other Adjustments, Transfers and Clearances *(In dollars)* *(g)*	Increase or Decrease During the Year (f ± g) *(In dollars)* *(h)*	Balance at End of Year (b ± h) *(In dollars)* *(i)*	Line No.
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Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -153-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

UNDIVIDED JOINT INTEREST PROPERTY

Name of Undivided Joint Interest Pipeline:

Line No.	Account (a)	Balance at Beginning of Year (in dollars) (b)	PROPERTY CHANGES DURING THE YEAR (In dollars) Expenditures for New Construction, Additions, and Improvements (c)	Expenditures for Existing Property Purchased or Otherwise Acquired (d)
	GATHERING LINES			
1	Land (101)			
2	Right of Way (102)			
3	Line Pipe (103)			
4	Line Pipe Fittings (104)			
5	Pipeline Construction (105)			
6	Buildings (106)			
7	Boilers (107)			
8	Pumping Equipment (108)			
9	Machine Tools and Machinery (109)			
10	Other Station Equipment (110)			
11	Oil Tanks (111)			
12	Delivery Facilities (112)			
13	Communication Systems (113)			
14	Office Furniture and Equipment (114)			
15	Vehicles and Other Work Equipment (115)			
16	Other Property (116)			
17	Asset Retirement Costs for Gathering Lines (117)			
18	TOTAL *(Lines 1 thru 17)*			
	TRUNK LINES			
19	Land (151)			
20	Right of Way (152)			
21	Line Pipe (153)			
22	Line Pipe Fittings (154)			
23	Pipeline Construction (155)			
24	Buildings (156)			
25	Boilers (157)			
26	Pumping Equipment (158)			
27	Machine Tools and Machinery (159)			
28	Other Station Equipment (160)			
29	Oil Tanks (161)			
30	Delivery Facilities (162)			
31	Communication Systems (163)			
32	Office Furniture and Equipment (164)			
33	Vehicles and Other Work Equipment (165)			
34	Other Property (166)			
35	Asset Retirement Costs for Trunk Lines (167)			
36	TOTALS *(Lines 19 thru 35)*			
	GENERAL			
37	Land (171)			
38	Buildings (176)			
39	Machine Tools and Machinery (179)			
40	Communication Systems (183)			
41	Office Furniture and Equipment (184)			
42	Vehicles and Other Work Equipment (185)			
43	Other Property (186)			
44	Asset Retirement Costs for General Property (186.1)			
45	Construction Work in Progress (187)			
46	TOTAL *(Lines 37 thru 45)*			
47	GRAND TOTAL *(Lines 18, 36, and 46)*			

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -154-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

UNDIVIDED JOINT INTEREST PROPERTY (Continued)

PROPERTY CHANGES DURING THE YEAR *(In dollars)*					
Property Sold, Abandoned, or Otherwise Retired During the Year *(e)*	Net (c+d-e) *(f)*	Other Adjustments, Transfers, and Clearances *(In dollars)* *(g)*	Increase or Decrease During the Year (f ± g) *(In dollars)* *(h)*	Balance at End of Year (b ± h) *(In dollars)* *(i)*	Line No.
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Name of Respondent	This Report Is: (1) □ An Original (2) □ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

ACCRUED DEPRECIATION - CARRIER PROPERTY
(EXCLUSIVE OF DEPRECIATION ON UNDIVIDED JOINT INTEREST PROPERTY REPORTED IN SCHEDULE 217)

Give particulars (details) of the credits and debits to Account No. 31, *Accrued Depreciation - Carrier Property*, during the year.

Line No.	Account (a)	Balance at Beginning of Year (In dollars) (b)	Debits to Accounts No. 540 and 541 of USofA (In dollars) (c)	Net Debit From Retirement of Carrier Property (In dollars) (d)	Other Debits and Credits-Net (In dollars) (e)	Balance at End of Year (b + c + d + e) (In dollars) (f)	Annual Composite/ Component Rates (In percent) (g)
	GATHERING LINES						
1	Right of Way (102)						
2	Line Pipe (103)						
3	Line Pipe Fittings (104)						
4	Pipeline Construction (105)						
5	Buildings (106)						
6	Boilers (107)						
7	Pumping Equipment (108)						
8	Machine Tools and Machinery (109)						
9	Other Station Equipment (110)						
10	Oil Tanks (111)						
11	Delivery Facilities (112)						
12	Communication Systems (113)						
13	Office Furniture and Equip (114)						
14	Vehicles and Other Work Equip (115)						
15	Other Property (116)						
16	Asset Retirement Costs for Gathering Lines (117)						
17	TOTAL *(Lines 1 thru 16)*						
	TRUNK LINES						
18	Right of Way (152)						
19	Line Pipe (153)						
20	Line Pipe Fittings (154)						
21	Pipeline Construction (155)						
22	Buildings (156)						
23	Boilers (157)						
24	Pumping Equipment (158)						
25	Machine Tools and Machinery (159)						
26	Other Station Equipment (160)						
27	Oil Tanks (161)						
28	Delivery Facilities (162)						
29	Communication Systems (163)						
30	Office Furniture and Equip (164)						
31	Vehicles and Other Work Equip (165)						
32	Other Property (166)						
33	Asset Retirement Costs for Trunk Lines (167)						
34	TOTAL *(Lines 18 thru 33)*						
	GENERAL						
35	Buildings (176)						
36	Machine Tools and Machinery (179)						
37	Communication Systems (183)						
38	Office Furniture and Equip (184)						
39	Vehicles and Other Work Equip (185)						
40	Other Property (186)						
41	Asset Retirement Costs for General Property (186.1)						
42	TOTAL *(Lines 35 thru 41)*						
43	GRAND TOTAL *(Lines 17, 34, 42)*						

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -156-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

ACCRUED DEPRECIATION - UNDIVIDED JOINT INTEREST PROPERTY

Give particulars (details) of the credits and debits to Account No. 31, *Accrued Depreciation - Carrier Property*, during the year.

Name of Undivided Joint Interest Pipeline:

Line No.	Account (a)	Balance at Beginning of Year (In dollars) (b)	Debits to Accounts No. 540 and 541 of USofA (In dollars) (c)	Net Debit From Retirement of Carrier Property (In dollars) (d)	Other Debits and Credits-Net (In dollars) (e)	Balance at End of Year (b + c + d + e) (In dollars) (f)	Annual Composite/ Component Rates (In percent) (g)
	GATHERING LINES						
1	Right of Way (102)						
2	Line Pipe (103)						
3	Line Pipe Fittings (104)						
4	Pipeline Construction (105)						
5	Buildings (106)						
6	Boilers (107)						
7	Pumping Equipment (108)						
8	Machine Tools and Machinery (109)						
9	Other Station Equipment (110)						
10	Oil Tanks (111)						
11	Delivery Facilities (112)						
12	Communication Systems (113)						
13	Office Furniture and Equip. (114)						
14	Vehicles and Other Work Equip. (115)						
15	Other Property (116)						
16	Asset Retirement Costs for Gathering Lines (117)						
17	TOTAL *(Lines 1 thru 16)*						
	TRUNK LINES						
18	Right of Way (152)						
19	Line Pipe (153)						
20	Line Pipe Fittings (154)						
21	Pipeline Construction (155)						
22	Buildings (156)						
23	Boilers (157)						
24	Pumping Equipment (158)						
25	Machine Tools and Machinery (159)						
26	Other Station Equipment (160)						
27	Oil Tanks (161)						
28	Delivery Facilities (162)						
29	Communication Systems (163)						
30	Office Furniture and Equip. (164)						
31	Vehicles and Other Work Equip. (165)						
32	Other Property (166)						
33	Asset Retirement Costs for Trunk Lines (167)						
34	TOTAL (Lines 18 thru 33)						
	GENERAL						
35	Buildings (176)						
36	Machine Tools and Machinery (179)						
37	Communication Systems (183)						
38	Office Furniture and Equip. (184)						
39	Vehicles and Other Work Equip. (185)						
40	Other Property (186)						
41	Asset Retirement Costs for General Property (186.1)						
42	TOTAL (Lines 35 thru 41)						
43	GRAND TOTAL *(Lines 17, 34, 42)*						

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

AMORTIZATION BASE AND RESERVE

1.) Enter in columns (b) thru (e) the cost of pipeline property used as the base in computing amortization charges included in Account 540, *Depreciation and Amortization*, and Account 541, *Depreciation Expense for Asset Retirement Costs* of the accounting company.
2.) Enter in columns (f) thru (i) the balances at the beginning and end of the year and the total credits and debits during the year in Account No. 32, *Accrued Amortization - Carrier Property.*
3.) The information requested for columns (b) thru (i) may be shown by projects or for totals only.
4.) If reporting by project, briefly describe in a foot-

Line No.	Items (a)	BASE (540 and 541) Balance at Beginning of Year (In dollars) (b)	Debits During Year (In dollars) (c)	Credits During Year (In dollars) (d)	Balance at End of Year (In dollars) (e)
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					
16					
17					
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32					
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34					
35					
36					
37					
38					
39					
40					
41					
42					
43					
44					
45					
46					
47	TOTAL				

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -158-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

AMORTIZATION BASE AND RESERVE (Continued)

note each project amounting to $100,000 or more. Reference the kind of property reported; do not include location. Items less than $100,000 may be combined in a single entry titled Minor items, each less than $100,000.

5.) If the amounts in column (g) do not correspond to the amounts actually charged to Account No. 540 and/or 541, explain such differences in a footnote.

6.) Explain in a footnote adjustments included in column (h) that affect operating expenses.

RESERVE (32)				
Balance at Beginning of Year (In dollars) (f)	Credits During Year (In dollars) (g)	Debits During Year (In dollars) (h)	Balance at End of Year (In dollars) (i)	Line No.
				1
				2
				3
				4
				5
				6
				7
				8
				9
				10
				11
				12
				13
				14
				15
				16
				17
				18
				19
				20
				21
				22
				23
				24
				25
				26
				27
				28
				29
				30
				31
				32
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				41
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				44
				45
				46
				47

Name of Respondent	This Report Is: (1) ◻ An Original (2) ◻ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

OPERATING EXPENSE ACCOUNTS (Account 610)

Report the respondent's pipeline operating expenses for the year, classifying them in accordance with the USofA.

Line No.	Operating Expense Accounts (a)	CRUDE OIL (In dollars) Gathering (b)	Trunk (c)	Delivery (d)	Total (b + c + d) (e)
	OPERATIONS and MAINTENANCE				
1	Salaries and Wages (300)				
2	Materials and Supplies (310)				
3	Outside Services (320)				
4	Operating Fuel and Power (330)				
5	Oil Losses and Shortages (340)				
6	Rentals (350)				
7	Other Expenses (390)				
8	TOTAL Operations and Maintenance Expenses				
	GENERAL				
9	Salaries and Wages (500)				
10	Materials and Supplies (510)				
11	Outside Services (520)				
12	Rentals (530)				
13	Depreciation and Amortization (540)				
14	Depreciation Expense for Asset Retirement Costs (541)				
15	Employee Benefits (550)				
16	Insurance (560)				
17	Casualty and Other Losses (570)				
18	Pipeline Taxes (580)				
19	Other Expenses (590)				
20	Accretion Expense (591)				
21	Gains or losses on Asset Retirement Obligations (592)				
22	TOTAL General Expenses				
23	GRAND TOTALS				

Appendix C Revised Schedules for FERC Forms 1, 1-F, 2, 2-A, and 6 -160-

Name of Respondent	This Report Is: (1) ☐ An Original (2) ☐ A Resubmission	Date of Report (Mo, Da, Yr)	Year of Report Dec. 31, 20___

OPERATING EXPENSE ACCOUNTS (Continued)

Line No.	Products (in dollars)			
	Trunk (f)	Delivery (g)	Total (f+g) (h)	Grand Total (e+h) (I)
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				
16				
17				
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19				
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21				
22				
23				

[FR Doc. 03–9260 Filed 4–18–03; 8:45 am]
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Federal Register

Monday,
April 21, 2003

Part III

The President

Memorandum of April 17, 2003—Authority to Hold Harmless and Indemnify in Certain Circumstances Under One Contract

Federal Register
Vol. 68, No. 76
Monday, April 21, 2003

Presidential Documents

Title 3—

The President

Memorandum of April 17, 2003

Authority to Hold Harmless and Indemnify in Certain Circumstances Under One Contract

Memorandum for the Administrator of the United States Agency for International Development

1. You are authorized for the United States Agency for International Development (USAID) to exercise authority under Public Law 85–804, as amended (50 U.S.C. 1431 *et seq.*), to the same extent and subject to the same conditions and limitations as the head of a department or agency listed in section 21 of Executive Order 10789 of November 14, 1958, as amended, with respect to one contract identified in subparagraph (a) of this memorandum and solely for the purpose identified in subparagraph (b).

(a) The contract is for repair and reconstruction in Iraq and is awarded on or before September 30, 2003.

(b) The purpose is to hold harmless and indemnify with respect to claims, losses, or damage arising out of or resulting from exposure, in the course of performance of the contract to which subparagraph (a) refers, to:

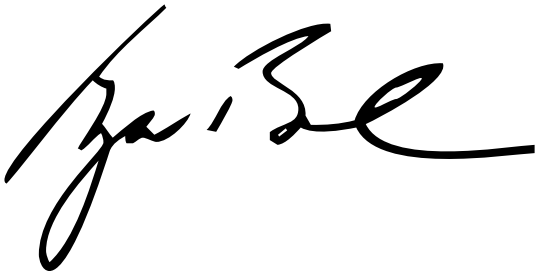
(i) chemical, biological, radiological, or nuclear weapons, agents, or materials;

(ii) land or sea mines or similar explosive devices; or

(iii) unexploded ordnance.

2. The function performed by USAID in awarding the contract to which paragraph 1 refers is a function connected with the national defense. There are currently national emergencies that have been declared by the President in accordance with applicable law. I deem that the authorization provided by paragraph 1 and actions taken pursuant to that authorization would facilitate the national defense.

3. You are authorized and directed to publish this memorandum in the **Federal Register**.



THE WHITE HOUSE,
Washington, April 17, 2003.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (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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Emergency Wartime Supplemental Appropriations Act, 2003 (Apr. 16, 2003; 117 Stat. 559)

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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	(869–048–00179–4)	42.00	Oct. 1, 2002
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:			
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40–69	(869–048–00187–5)	36.00	Oct. 1, 2002
70–79	(869–048–00188–3)	58.00	Oct. 1, 2002
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48 Chapters:			
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49 Parts:			
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1000–1199	(869–048–00202–2)	25.00	Oct. 1, 2002

Title	Stock Number	Price	Revision Date
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[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, 2002, through January 1, 2003. The CFR volume issued as of January 1, 2002 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.