7–16–07 Monday
Vol. 72 No. 135 July 16, 2007

Pages 38747–38996

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 72 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, July 17, 2007
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

Contents

Federal Register

Vol. 72, No. 135

Monday, July 16, 2007

Agriculture Department
See Forest Service
See Natural Resources Conservation Service

Centers for Disease Control and Prevention
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 38837

Coast Guard
RULES
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Lake Michigan, MI, 38785–38787
Regattas and marine parades:
SBIP - Fountain Powerboats Kilo Run and Super Boat Grand Prix, 38783–38785
PROPOSED RULES
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Choptank River, MD, 38804–38806
Regattas and marine parades:
Clarksville Hydroplane Challenge, 38808–38810
Poquoson Seafood Festival Workboat Races, 38806–38808
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 38839–38840

Commerce Department
See Economic Development Administration
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Comptroller of the Currency
RULES
Depository Institution Management Interlocks Act; implementation, 38753–38755

Defense Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 38826
Privacy Act; systems of records, 38826–38827

Economic Development Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
National Technical Assistance, Training, Research, and Evaluation Program, 38812–38815

Education Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Postsecondary education—
Hurricane Education Recovery Awards, 38827–38831

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air pollutants, hazardous; national emission standards:
Acrylic and modacrylic fibers production, carbon black production, lead acid battery manufacturing, wood preserving, etc., 38864–38917
Air quality implementation plans:
Preparation, adoption, and submittal—
Plan submission methods and public hearing requirements; revisions and administrative changes, 38787–38793
Air quality implementation plans; approval and promulgation; various States:
Virginia, 38920–38949
PROPOSED RULES
Air programs:
Volatile organic compound emission standards, national—
Aerosol coatings, 38952–38991

Executive Office of the President
See Presidential Documents
See Trade Representative, Office of United States

Federal Aviation Administration
RULES
Standard instrument approach procedures, 38755–38757
PROPOSED RULES
Airworthiness directives:
Bell Helicopter Textron Canada, 38797–38800
PIAGGIO AERO INDUSTRIES, 38800–38802
NOTICES
Aircraft:
Zeppelin Luftschifftechnik GmbH model LZ N07 airship; design criteria availability; requests for comments, 38858
Meetings:
RTCA, INC., 38858–38860

Federal Communications Commission
RULES
Common carrier services:
Wireless telecommunications services—
Advanced Mobile Phone Services; Provide analog service to subscribers and roamers, 38793–38794

Federal Deposit Insurance Corporation
RULES
Depository Institution Management Interlocks Act; implementation, 38753–38755
NOTICES
Meetings; Sunshine Act, 38831

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
Kansas, 38840
New York, 38840–38841

Federal Energy Regulatory Commission
RULES
Electric utilities (Federal Power Act):
Business practice standards and communication protocols for public utilities, 38757–38767

Federal Highway Administration
NOTICES
Environmental statements; notice of intent:
Albany County, NY, 38860

Federal Reserve System
RULES
Depository Institution Management Interlocks Act; implementation, 38753–38755

Federal Trade Commission
NOTICES
Premerger notification waiting periods; early terminations, 38831–38836

Fish and Wildlife Service
NOTICES
Incidental take permits:
Charlotte County, FL, 38843

Forest Service
NOTICES
Meetings:
Olympic Peninsula Resource Advisory Committee, 38812

Health and Human Services Department
See Centers for Disease Control and Prevention
See Substance Abuse and Mental Health Services Administration
NOTICES
Scientific misconduct findings; administrative actions:
Roovers, Kristin, Ph.D., 38836–38837

Homeland Security Department
See Coast Guard
See Federal Emergency Management Agency
See U.S. Citizenship and Immigration Services
RULES
Immigration:
United States Visitor and Immigrant Status Technology Program (US-VISIT)—
Automated Biometric Identification System (IDENT); exemptions from Privacy Act systems of records provisions; implementation, 38749–38750
Privacy Act; implementation, 38750–38753

Industry and Security Bureau
NOTICES
Meetings:
Deemed Export Advisory Committee, 38815–38816

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

Internal Revenue Service
RULES
Income taxes:
Qualified zone academy bonds; obligations of States and political subdivisions, 38767–38778
PROPOSED RULES
Income taxes:
Qualified zone academy bonds; obligations of States and political subdivisions; cross reference, 38802–38803

International Trade Administration
NOTICES
Antidumping:
Steel nails from—
China and United Arab Emirates, 38816–38823
Antidumping and countervailing duties:
New pneumatic off-the-road tires from—
China, 38816
Trade mission:
Renewable Energy Alternative Fuels; mission statement, 38823–38824

Land Management Bureau
NOTICES
Meetings:
Resource Advisory Councils—
Western Montana, 38843–38844

National Highway Traffic Safety Administration
NOTICES
Meetings:
Ignition interlocks for convicted impaired driving offenders, 38860–38861

National Labor Relations Board
RULES
Privacy Act; implementation, 38778–38783

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Pacific ocean perch, 38794–38796
Pacific ocean perch and Rougheye rockfish, 38795–38796
NOTICES
Committees; establishment, renewal, termination, etc.:
Cordell Marine Sanctuary Advisory Board, 38825
Marine mammal permit applications, determinations, etc., 38825–38826

National Park Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 38844
Concession contract negotiatioons:
Great Sand Dunes National Park and Preserve, CO; sale of firewood, 38844

Natural Resources Conservation Service
NOTICES
Environmental statements; records of decision:
Lost River Subwatershed of the Potomac River Watershed, WV, 38812

Nuclear Regulatory Commission
NOTICES
Committees; establishment, renewal, termination, etc.:
Medical Uses of Isotopes Advisory Committee; nominations, 38844–38845
Regulatory guides; issuance, availability, and withdrawal, 38845–38846

Office of United States Trade Representative
See Trade Representative, Office of United States

Peace Corps
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 38847–38849

Pipeline and Hazardous Materials Safety Administration
PROPOSED RULES
Hazardous materials:
Conversion of special permits into regulations of general applicability, 38810–38811

Presidential Documents
PROCLAMATIONS
Special observances:
Parents' Day (Proc. 8161), 38993–38996
ADMINISTRATIVE ORDERS
Women's Justice and Empowerment Initiative; transfer of funds (Presidential Determination)
No. 2007-25 of July 5, 2007, 38747

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Chicago Board Options Exchange, Inc., 38850–38853
Philadelphia Stock Exchange, Inc., 38853–38858

Substance Abuse and Mental Health Services Administration

NOTICES
Agency information collection activities; proposals, submissions, and approvals, 38837–38839

Thrift Supervision Office
RULES
Depository Institution Management Interlocks Act; implementation, 38753–38755

Trade Representative, Office of United States
NOTICES
World Trade Organization:
General Agreement on Trade in Services (GATS)—
U.S. Service Commitments Schedule; compensatory adjustment negotiations, 38846–38847

Transportation Department
See Federal Aviation Administration
See Federal Highway Administration
See National Highway Traffic Safety Administration
See Pipeline and Hazardous Materials Safety Administration

Treasury Department
See Comptroller of the Currency
See Internal Revenue Service
See Thrift Supervision Office
NOTICES
Bonds, Treasury:
10-3/8 percent bonds (2007-2012); call for redemption, 38861
Meetings:
Debt Management Advisory Committee, 38861–38862

U.S. Citizenship and Immigration Services
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 38841–38842

Separate Parts In This Issue

Part II
Environmental Protection Agency, 38864–38917

Part III
Environmental Protection Agency, 38920–38949

Part IV
Environmental Protection Agency, 38952–38991

Part V
Executive Office of the President, Presidential Document, 38993–38996

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
8161 38995
Administrative Orders:
Presidential
Determinations:
No. 2007-25 of July 5, 2007 38747

6 CFR
5 (2 documents) 38749, 38750

12 CFR
26 38753
212 38753
348 38753
563f 38753

14 CFR
97 38755
Proposed Rules:
39 (2 documents) 38797, 38800

18 CFR
38 38757
284 38757

26 CFR
1 38767
602 38767
Proposed Rules:
1 38802

29 CFR
102 38778

33 CFR
100 38783
165 38785
Proposed Rules:
100 (3 documents) 38804, 38806, 38808

40 CFR
51 38787
52 (2 documents) 38787, 38920
63 38864
Proposed Rules:
51 38952
59 38952

47 CFR
22 38793

49 CFR
Proposed Rules:
Ch. 1 38810

50 CFR
679 (3 documents) 38794, 38795, 38796

Federal Register
Vol. 72, No. 135
Monday, July 16, 2007

Presidential Documents

Title 3—

The President

Presidential Determination No. 2007–25 of July 5, 2007

Transfer of Funds from Prior Year Independent States Account to the International Narcotics Control and Law Enforcement Account To Support the Women's Justice and Empowerment Initiative

Memorandum for the Secretary of State

Pursuant to the authority vested in me by the Constitution and laws of the United States, including section 610 of the Foreign Assistance Act of 1961, as amended (the ''Act''), I hereby determine that it is necessary for the purposes of that Act that $1.8 million in prior year Independent States funds made available under chapter 11 of part I of the Act be transferred to, and consolidated with, funds made available under chapter 8 of part I of the Act, and such funds are hereby so transferred and consolidated.

You are authorized and directed to report this determination to the Congress and to arrange for its publication in the **Federal Register**.

THE WHITE HOUSE,
Washington, July 5, 2007.

[FR Doc. 07–3473
Filed 7–13–07; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 72, No. 135
Monday, July 16, 2007

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket No. DHS–2007–0044]

Privacy Act of 1974; Implementation of Exemptions

AGENCY: Privacy Office, Office of the Secretary, Department of Homeland Security.

ACTION: Final rule.

SUMMARY: On July 27, 2006 the Department of Homeland Security published a notice of proposed rulemaking to exempt portions of the Automated Biometric Identification System (IDENT) system of records from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. No comments were received so this final rule adopts the proposed rule of July 27, 2006, without change.

DATES: This final rule is effective August 15, 2007.

FOR FURTHER INFORMATION CONTACT: Claire Miller, Acting US–VISIT Privacy Officer, Washington, DC 20528, by telephone (202) 298–5200, or by facsimile (202) 298–5201.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2006 the Department of Homeland Security published a notice of proposed rulemaking to exempt portions of the Automated Biometric Identification System (IDENT) system of records notice from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements. This proposed rule would exempt certain records from the access and amendment provisions of law as permitted by the Privacy Act. No comments were received in response to this notice of proposed rulemaking, so this final rule adopts the proposed rule of July 27, 2006, without change.

IDENT is the primary repository of biometric information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws (including the immigration law); investigations, inquiries, and proceedings thereunder; and national security and intelligence activities. IDENT is a centralized and dynamic DHS-wide biometric database that also contains limited biographic, unique identifiers, and encounter history information needed to place the biometric information in proper context. The information is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies.

The Privacy Act requires each agency to publish in the **Federal Register** a description of the type and character of each system of records that the agency maintains, and the routine uses that are contained in each system in order to make agency recordkeeping practices transparent, to notify individuals regarding the uses to which personally identifiable information is put, and to assist individuals in finding such files within the agency.

The Privacy Act allows Government agencies to exempt certain records from the access and amendment provisions. If an agency claims an exemption, however, it must issue a rulemaking to make clear to the public the reasons why a particular exemption is claimed.

By this rule DHS is claiming exemption from certain requirements of the Privacy Act for IDENT. Some information in IDENT relates to official DHS national security, immigration and border management, and law enforcement activities. These exemptions are needed to protect information relating to DHS activities from disclosure to subjects or others related to these activities. Specifically, the exemptions are required to preclude subjects of these activities from frustrating these processes; to avoid disclosure of activity techniques; to protect the identities and physical safety of confidential informants and of immigration and border management and law enforcement personnel; to ensure DHS's ability to obtain information from third parties and other sources; to protect the privacy of third parties; and to safeguard classified information. Disclosure of information to the subject of the inquiry could also permit the subject to avoid detection or apprehension.

The exemptions are standard law enforcement and national security exemptions exercised by a large number of Federal law enforcement and intelligence agencies. In appropriate circumstances, where compliance would not appear to interfere with or adversely affect the law enforcement purposes of this system and the overall law enforcement process, the applicable exemptions may be waived.

List of Subjects in 6 CFR Part 5

Privacy, Freedom of information.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

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

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 et seq.; 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552. Subpart B also issued under 5 U.S.C. 552a.

■ 2. Amend Appendix C to part 5 by adding a new section 4 to read as follows:

Appendix C—DHS Systems of Records Exempt From the Privacy Act

* * * * *

4. The Department of Homeland Security Automated Biometric Identification System (IDENT) consists of electronic and paper records and will be used by DHS and its components. IDENT is the primary repository of biometric information held by DHS in connection with its several and varied missions and functions, including, but not limited to: The enforcement of civil and criminal laws (including the immigration law); investigations, inquiries, and proceedings thereunder; and national security and intelligence activities. IDENT is a centralized and dynamic DHS-wide biometric database that also contains limited biographic and encounter history information needed to place the biometric information in

proper context. The information is collected by, on behalf of, in support of, or in cooperation with DHS and its components and may contain personally identifiable information collected by other Federal, State, local, tribal, foreign, or international government agencies.

Pursuant to exemptions 5 U.S.C. 552a(j)(2) of the Privacy Act, portions of this system are exempt from 5 U.S.C. 552a(c)(3) and (4); (d); (e)(1), (e)(2), (e)(3), (e)(4)(G), (e)(4)(H), (e)(5) and (e)(8); (f)(2) through (5); and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act, subject to the limitations set forth in those subsections: 5 U.S.C. 552a (c)(3), (d), (e)(1), (e)(4)(G), and (e)(4)(H). Exemptions from these particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, for the following reasons:

(a) From subsection (c)(3) and (4) (Accounting for Disclosures) because release of the accounting of disclosures could alert the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to the existence of the investigation; and reveal investigative interest on the part of DHS as well as the recipient agency. Disclosure of the accounting would therefore present a serious impediment to law enforcement efforts and/or efforts to preserve national security. Disclosure of the accounting would also permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension, which would undermine the entire investigative process.

(b) From subsection (d) (Access to Records) because access to the records contained in this system of records could inform the subject of an investigation of an actual or potential criminal, civil, or regulatory violation, to the existence of the investigation, and reveal investigative interest on the part of DHS or another agency. Access to the records could permit the individual who is the subject of a record to impede the investigation, to tamper with witnesses or evidence, and to avoid detection or apprehension. Amendment of the records could interfere with ongoing investigations and law enforcement activities and would impose an impossible administrative burden by requiring investigations to be continuously reinvestigated. In addition, permitting access and amendment to such information could disclose security-sensitive information that could be detrimental to homeland security.

(c) From subsection (e)(1) (Relevancy and Necessity of Information) because in the course of investigations into potential violations of Federal law, the accuracy of information obtained or introduced occasionally may be unclear or the information may not be strictly relevant or necessary to a specific investigation. In the interests of effective law enforcement, it is appropriate to retain all information that may aid in establishing patterns of unlawful activity.

(d) From subsection (e)(2) (Collection of Information from Individuals) because requiring that information be collected from the subject of an investigation would alert the subject to the nature or existence of an investigation, thereby interfering with the related investigation and law enforcement activities.

(e) From subsection (e)(3) (Notice to Subjects) because providing such detailed information would impede law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(f) From subsections (e)(4)(G) and (H) (Agency Requirements), and (f)(2 through 5) (Agency Rules) because portions of this system are exempt from the individual access provisions of subsection (d) and thereby would not require DHS to establish requirements or rules for records which are exempted from access.

(g) From subsection (e)(5) (Collection of Information) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. Compliance with (e)(5) would preclude DHS agents from using their investigative training and exercise of good judgment to both conduct and report on investigations.

(h) From subsection (e)(8) (Notice on Individuals) because compliance would interfere with DHS' ability to obtain, serve, and issue subpoenas, warrants, and other law enforcement mechanisms that may be filed under seal, and could result in disclosure of investigative techniques, procedures, and evidence.

(i) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: July 5, 2007.

Hugo Teufel III,

Chief Privacy Officer.

[FR Doc. E7–13576 Filed 7–13–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Part 5

[Docket Number DHS–2007–0047]

Privacy Act of 1974: Implementation of Exemptions; Redress and Response Records System

AGENCY: Privacy Office, Office of the Secretary, DHS.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security is issuing a final rule to amend its regulations to exempt portions of a new system of records entitled the Redress and Response Records System from certain provisions of the Privacy Act. Specifically, the Department proposes to exempt portions of the Redress and Response Records System from one or more provisions of the Privacy Act because of criminal, civil, and administrative enforcement requirements.

DATES: *Effective Date:* This final rule is effective July 16, 2007.

FOR FURTHER INFORMATION CONTACT: Hugo Teufel III, Chief Privacy Officer, Privacy Office, Department of Homeland Security, Washington, DC 20528; telephone 703–235–0780; facsimile: 866–466–5370.

SUPPLEMENTARY INFORMATION:

Background

On January 18, 2007, DHS published notice of a new Privacy Act system of records entitled ''Redress and Response Records System, DHS/ALL–005.'' [1] The DHS Redress and Response Records System maintains records for the DHS Traveler Redress Inquiry Program (TRIP), which is the traveler redress mechanism established by DHS in connection with the Rice-Chertoff Initiative, as well as in accordance with other policy and law. DHS TRIP will facilitate the public's ability to provide appropriate information to DHS for redress requests when they believe they have been denied entry, refused boarding for transportation, or identified for additional screening by DHS components or programs at their operational locations. Such locations include airports, seaports, train stations, and land borders. DHS TRIP will create a cohesive process to address these redress requests across DHS.

DHS TRIP will serve as a mechanism to share redress-related information and facilitate communication of redress results across DHS components. It will also facilitate efficient adjudication of redress requests. Once the information intake is complete, DHS TRIP will facilitate the transfer of or access to this information for the DHS components or other agencies that will address the redress request.

This system contains records pertaining to various categories of individuals, including: Individuals seeking redress or individuals on whose behalf redress is sought from DHS; individuals applying for redress on behalf of another individual; and DHS employees and contractors assigned to interact with the redress process.

No exemption shall be asserted with respect to information submitted by and collected from individuals or their representatives in the course of any redress process associated with this System of Records.

[1] 72 FR 2296 (January 18, 2007).

In conjunction with publication of the DHS Redress and Response Records System system of records notice, DHS initiated a rulemaking to exempt this system of records from a number of provisions of the Privacy Act,[2] because this system may contain records or information recompiled from or created from information contained in other systems of records, which are exempt from certain provisions of the Privacy Act. For these records or information only, in accordance with 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5), DHS will also claim the original exemptions for these records or information from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (5), and (8); (f), and (g) of the Privacy Act of 1974, as amended, as necessary and appropriate to protect such information. Such exempt records or information may be law enforcement or national security investigation records, law enforcement activity and encounter records, or terrorist screening records.

Public Comments

DHS received four comments on the proposed rule and two on the DHS Redress and Response Records System system of records notice.

With regard to the comments received on the proposed rule, two of the four comments received via the docket did not address this particular proposed rule and appear to be mistaken submissions. One comment received did not specifically provide comments, but posed a number of questions. The remaining comment provided observations with regard to the DHS Traveler Redress Inquiry Program (DHS TRIP) and watchlists, and comments regarding the system of records notice and the proposed rule.

With regard to the two comments received on the system of records notice, one comment was a duplicate of the last noted comment on the proposed rule. The remaining comment was a general comment regarding the DHS TRIP program and did not address issues concerning the system or records notice or the proposed rule.

A discussion for response to the applicable comments received is below.

The comments received questioned the use of exemptions to provisions of the Privacy Act of 1974 as proposed. Generally, DHS proposed to use the exemptions in order to protect information relating to law enforcement investigations from disclosure to subjects of investigations and others who could interfere with investigatory and law enforcement activities. Specifically, the exemptions are required to: Preclude subjects of investigations from frustrating the investigative process; avoid disclosure of investigative techniques; protect the identities and physical safety of confidential informants and of law enforcement personnel; ensure DHS's and other federal agencies' ability to obtain information from third parties and other sources; protect the privacy of third parties; and safeguard sensitive information.

Nevertheless, under the proposed rule, these exemptions will only be claimed for information coming into this system of records from systems that already claim exemptions on such information, and no exemptions would be claimed over information collected directly from an individual for input into this system of records. In fact, both the system of records notice and the proposed rule indicate that as part of the process for responding to requests, if information about an individual contained in this system of records comes from a system claiming exemptions, a review will occur to determine if the need to claim exemption from provisions of the Privacy Act with regard to a particular individual's information continues to be necessary. This approach to claiming exemptions will not only provide better access to information and directly resolve the concerns raised in the comments received, but it will also serve to enhance the redress process by ensuring the accuracy and relevancy of information in underlying systems of records.

One comment suggested that this provision is meaningless; however, due to the appropriate routine uses included in the system of records notice, because the routine uses regarding the sharing of information for law enforcement or counter-intelligence/counter-terrorism purposes work independently of whether or not information is disclosed back to the individual and therefore is not meaningless. As noted above, DHS seeks only to protect information from inappropriate disclosure that originates from systems already claiming exemptions; however, on a case-by-case basis, DHS will examine whether or not the exemptions continue to be necessary with regard to the particular individual's information.

Additionally, one comment suggests that the exemptions are unnecessary because, in the context of the information potentially held in this system of records, an individual will ''know'' that he or she is under investigation and therefore the underlying reason for needing the exemptions is moot; however, an individual's mere belief that his or her perceived delay or inconvenience while traveling does not provide that individual with definitive knowledge of whether or not he or she was the subject of an investigation, even if that individual already sought resolution through the DHS TRIP.

The comments received questioned the general need for exempting some records of this system from the provisions of the Privacy Act. Because information in this system of records may be related to investigations that may arise out of DHS programs and activities, such information may pertain to national security and/or law enforcement matters. In such cases, allowing access to such information could alert subjects of such investigations of actual or potential criminal, civil, or regulatory violations, and could reveal, in an untimely manner, DHS's and other agencies' investigative interests in law enforcement efforts to preserve national security.

Additionally, DHS needs to have the ability to claim these exemptions in order to protect information relating to investigations from disclosure to subjects of investigations and others who could interfere with investigatory activities. Specifically, the exemptions are required to: Withhold information to the extent it identifies witnesses promised confidentiality as a condition of providing information during the course of an investigation; prevent subjects of investigations from frustrating the investigative process; avoid disclosure of investigative techniques; protect the privacy of third parties; ensure DHS' and other federal agencies' ability to obtain information from third parties and other sources; and safeguard sensitive information. The exemptions proposed here are standard law enforcement and national security exemptions exercised by federal law enforcement and intelligence agencies.

One comment asserts that this rule will create new exemptions for other systems of records. Nonetheless, this rule cannot exempt other existing systems of records from provisions of the Privacy Act. The purpose of this rule is to protect appropriately information coming into this system of records from systems that independently claim exemptions.

Further, the comment indicates that there is no ''alternative venue'' for individuals regarding their information; however, the DHS TRIP provides individuals with appropriate redress mechanisms in connection with travel-

[2] 72 FR 2209 (January 18, 2007).

related encounters or circumstances, including the correction or updating of an individual's information. Furthermore, when an individual requests access to his or her information, DHS will examine each request on a case-by-case basis, and, after conferring with the appropriate component or agency, may waive applicable exemptions in appropriate circumstances where it would not appear to interfere with or adversely affect the law enforcement or national security purposes of the systems from which the information is recompiled or in which it is contained.

Again, DHS shall not assert any exemption with respect to information submitted by and collected from the individual or the individual's representative in the course of any redress process associated with the underlying system of records.

Regulatory Requirements

A. Regulatory Impact Analyses

Changes to Federal regulations must undergo several analyses. In conducting these analyses, DHS has determined:

1. Executive Order 12866 Assessment

This rule is not a significant regulatory action under Executive Order 12866, ''Regulatory Planning and Review'' (as amended). Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB). Nevertheless, DHS has reviewed this rulemaking, and concluded that there will not be any significant economic impact.

2. Regulatory Flexibility Act Assessment

Pursuant to section 605 of the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA), DHS certifies that this rule will not have a significant impact on a substantial number of small entities. The rule would impose no duties or obligations on small entities. Further, the exemptions to the Privacy Act apply to individuals, and individuals are not covered entities under the RFA.

3. International Trade Impact Assessment

This rulemaking will not constitute a barrier to international trade. The exemptions relate to criminal investigations and agency documentation and, therefore, do not create any new costs or barriers to trade.

4. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4, 109 Stat. 48), requires Federal agencies to assess the effects of certain regulatory actions on State, local, and tribal governments, and the private sector. This rulemaking will not impose an unfunded mandate on State, local, or tribal governments, or on the private sector.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.) requires that DHS consider the impact of paperwork and other information collection burdens imposed on the public and, under the provisions of PRA section 3507(d), obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. DHS has determined that there are no current or new information collection requirements associated with this rule.

C. Executive Order 13132, Federalism

This action 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, and therefore will not have federalism implications.

D. Environmental Analysis

DHS has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4347) and has determined that this action will not have a significant effect on the human environment.

E. Energy Impact

The energy impact of this action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Public Law 94–163, as amended (42 U.S.C. 6362). This rulemaking is not a major regulatory action under the provisions of the EPCA.

List of Subjects in 6 CFR Part 5

Sensitive information, Privacy, Freedom of information.

■ For the reasons stated in the preamble, DHS amends Chapter I of Title 6, Code of Federal Regulations, as follows:

PART 5—DISCLOSURE OF RECORDS AND INFORMATION

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

Authority: Pub. L. 107–296, 116 Stat. 2135, 6 U.S.C. 101 et seq., 5 U.S.C. 301. Subpart A also issued under 5 U.S.C. 552.

■ 2. At the end of Appendix C to Part 5, add a new section 3 to read as follows:

Appendix C to Part 5—DHS Systems of Records Exempt From the Privacy Act

* * * * *

3. DHS–ALL–005, Redress and Response Records System. A portion of the following system of records is exempt from 5 U.S.C. 552a(c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (4)(G) through (I), (5), and (8); (f), and (g); however, these exemptions apply only to the extent that information in this system records is recompiled or is created from information contained in other systems of records subject to such exemptions pursuant to 5 U.S.C. 552a(j)(2), (k)(1), (k)(2), and (k)(5). Further, no exemption shall be asserted with respect to information submitted by and collected from the individual or the individual's representative in the course of any redress process associated with this system of records. After conferring with the appropriate component or agency, DHS may waive applicable exemptions in appropriate circumstances and where it would not appear to interfere with or adversely affect the law enforcement or national security purposes of the systems from which the information is recompiled or in which it is contained. Exemptions from the above particular subsections are justified, on a case-by-case basis to be determined at the time a request is made, when information in this system records is recompiled or is created from information contained in other systems of records subject to exemptions for the following reasons:

(a) From subsection (c)(3) because making available to a record subject the accounting of disclosures from records concerning him or her would specifically reveal any investigative interest in the individual. Revealing this information could reasonably be expected to compromise ongoing efforts to investigate a known or suspected terrorist by notifying the record subject that he or she is under investigation. This information could also permit the record subject to take measures to impede the investigation, e.g., destroy evidence, intimidate potential witnesses, or flee the area to avoid or impede the investigation.

(b) From subsection (c)(4) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(c) From subsections (d)(1), (2), (3), and (4) because these provisions concern individual access to and amendment of certain records contained in this system, including law enforcement counterterrorism, investigatory, and intelligence records. Compliance with these provisions could alert the subject of an investigation of the fact and nature of the investigation, and/or the investigative interest of intelligence or law enforcement agencies; compromise sensitive information related to national security; interfere with the overall law enforcement process by leading to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; could identify a confidential source or disclose information which would constitute an unwarranted invasion of another's personal

privacy; reveal a sensitive investigative or intelligence technique; or constitute a potential danger to the health or safety of law enforcement personnel, confidential informants, and witnesses. Amendment of these records would interfere with ongoing counterterrorism, law enforcement, or intelligence investigations and analysis activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(d) From subsection (e)(1) because it is not always possible for DHS or other agencies to know in advance what information is relevant and necessary for it to complete an identity comparison between the individual seeking redress and a known or suspected terrorist. Also, because DHS and other agencies may not always know what information about an encounter with a known or suspected terrorist will be relevant to law enforcement for the purpose of conducting an operational response.

(e) From subsection (e)(2) because application of this provision could present a serious impediment to counterterrorism, law enforcement, or intelligence efforts in that it would put the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct designed to frustrate or impede that activity. The nature of counterterrorism, law enforcement, or intelligence investigations is such that vital information about an individual frequently can be obtained only from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely upon information furnished by the individual concerning his own activities.

(f) From subsection (e)(3), to the extent that this subsection is interpreted to require DHS to provide notice to an individual if DHS or another agency receives or collects information about that individual during an investigation or from a third party. Should the subsection be so interpreted, exemption from this provision is necessary to avoid impeding counterterrorism, law enforcement, or intelligence efforts by putting the subject of an investigation, study, or analysis on notice of that fact, thereby permitting the subject to engage in conduct intended to frustrate or impede that activity.

(g) From subsections (e)(4)(G), (H) and (I) (Agency Requirements) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(h) From subsection (e)(5) because many of the records in this system coming from other system of records are derived from other domestic and foreign agency record systems and therefore it is not possible for DHS to vouch for their compliance with this provision; however, the DHS has implemented internal quality assurance procedures to ensure that data used in the redress process is as thorough, accurate, and current as possible. In addition, in the collection of information for law enforcement, counterterrorism, and intelligence purposes, it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. The restrictions imposed by (e)(5) would limit the ability of those agencies' trained investigators and intelligence analysts to exercise their judgment in conducting investigations and impede the development of intelligence necessary for effective law enforcement and counterterrorism efforts. The DHS has, however, implemented internal quality assurance procedures to ensure that the data used in the redress process is as thorough, accurate, and current as possible.

(i) From subsection (e)(8) because to require individual notice of disclosure of information due to compulsory legal process would pose an impossible administrative burden on DHS and other agencies and could alert the subjects of counterterrorism, law enforcement, or intelligence investigations to the fact of those investigations when not previously known.

(j) From subsection (f) (Agency Rules) because portions of this system are exempt from the access and amendment provisions of subsection (d).

(k) From subsection (g) to the extent that the system is exempt from other specific subsections of the Privacy Act.

Dated: July 5, 2007.

Hugo Teufel III,

Chief Privacy Officer.

[FR Doc. E7–13564 Filed 7–13–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 26

[Docket ID OCC–2007–0006]

RIN 1557–AD01

FEDERAL RESERVE SYSTEM

12 CFR Part 212

[Regulation L; Docket No. R–1272]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 348

RIN 3064–AD13

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 563f

[Docket ID OTS–2007–0013]

RIN 1550–AC09

Management Official Interlocks

AGENCIES: Office of the Comptroller of the Currency, Treasury; Board of Governors of the Federal Reserve System; Federal Deposit Insurance Corporation; and Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the Agencies) are amending their rules regarding management interlocks to implement section 610 of the Financial Services Regulatory Relief Act of 2006 (FSRRA) and to correct inaccurate cross-references.

DATES: Effective on July 16, 2007, the interim rule as published on January 11, 2007, (72 FR 1274) is adopted as a final rule without change.

FOR FURTHER INFORMATION CONTACT:

OCC: Heidi M. Thomas, Special Counsel, Legislative and Regulatory Activities Division, (202) 874–4688; Sue Auerbach, Counsel, Bank Activities and Structure Division, (202) 874–5300; or Jan Kalmus, Senior Licensing Analyst, Licensing Activities Division, (202) 874–4608, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Andrew S. Baer, Counsel, (202) 452–2246, or Jennifer L. Sutton, Attorney, (202) 452–3564, Legal Division, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. For users of Telecommunication Device for the Deaf (TDD) only, contact (202) 263–4869.

FDIC: Patricia A. Colohan, Senior Examination Specialist, Division of Supervision and Consumer Protection, (202) 898–7283, or Mark Mellon, Counsel, Legal Division, (202) 898–3884.

OTS: David J. Bristol, Senior Attorney, (202) 906–6461, Business Transactions Division, Office of Thrift Supervision, or Donald W. Dwyer, Director of Applications, Examinations and Supervision—Operations, (202) 906–6414, 1700 G Street NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

The Depository Institution Management Interlocks Act (12 U.S.C. 3201 *et seq.*) (Interlocks Act or Act) prohibits individuals from simultaneously serving as a

management official [1] at two unaffiliated depository institutions or their holding companies (collectively, depository organizations) under certain circumstances. For example, section 203(1) of the Act (12 U.S.C. 3202(1)) prohibits interlocks between unaffiliated depository organizations if each depository organization (or a depository institution affiliate thereof) has an office in the same relevant metropolitan statistical area (RMSA) (RMSA prohibition), unless one of the depository organizations involved has total assets below a specified threshold (small institution exception). Prior to enactment of the FSRRA, the total asset threshold for this small institution exception was $20 million. However, section 610 of the FSRRA amended section 203(1) of the Interlocks Act by raising this asset threshold to $50 million, effective as of October 13, 2006.[2]

II. Summary of Interim Rule

In January 2007, the Agencies adopted on an interim basis, and requested public comment on, amendments to their rules in order to implement section 610 of the FSRRA.[3] Specifically, the interim rules modified the regulatory RMSA prohibition to conform to revised section 203(1) of the Act by allowing a management official of one depository organization to serve as a management official of an unaffiliated depository organization if the depository organizations (or their depository institution affiliates) have offices in the same RMSA and one of the depository organizations in question has total assets of less than $50 million.

The interim rule also made technical changes to correct inaccurate cross-references in the definition of management official in each of the Agencies' rules.

III. Explanation of Final Rule

The Agencies received two comments on the interim rule, both of which were filed by trade associations representing banking organizations. Both commenters supported the interim rule, stating that the rule will afford small banking organizations greater access to qualified individuals who may serve as management officials. Both commenters also urged the Agencies to consider further raising the asset threshold for the small institution exception to the RMSA prohibition. As noted in the interim rule, FSRRA raised the asset threshold, and neither FSRRA nor the Act gives the Agencies discretion to modify the asset-size threshold for the small institution exception. After carefully considering the comments received, the Agencies have adopted a final rule that is identical to the interim rule.

IV. Regulatory Analysis

Plain Language

Section 722 of the Gramm-Leach-Bliley Act (12 U.S.C. 4809) requires the Agencies to use ''plain language'' in all rules published in the **Federal Register** after January 1, 2000. The Agencies believe the final rule is presented in a simple and straightforward manner.

Administrative Procedure Act

The final rule takes effect upon publication in the **Federal Register**. As noted in the interim rule, the changes adopted in the rule implement a statutory change that took effect upon enactment on October 13, 2006, and the technical corrections of cross-references effected by the rule are not substantive. The new statutory provision itself gives the Agencies no discretion to modify the asset-size threshold for the small institution exception. Accordingly, pursuant to 5 U.S.C. 553(d), the agencies conclude that there is good cause for making this rule effective immediately upon publication in the **Federal Register**.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 605(b)), the regulatory flexibility analysis otherwise required under section 603 of the RFA (5 U.S.C. 603) is not required if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and the agency publishes such certification and a statement explaining the factual basis for such certification in the **Federal Register** along with its rule.

Pursuant to section 605(b) of the RFA, each of the Agencies certifies that this final rule will not have a significant economic impact on a substantial number of small entities. The Agencies expect that this rule will not create any additional burden on small entities. The final rule relaxes the criteria for obtaining an exemption from the RMSA prohibition, and specifically addresses the needs of small entities by allowing greater numbers of small organizations to qualify for the small institution exception from the RMSA prohibition. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Agencies have determined that no collections of information pursuant to the Paperwork Reduction Act are contained in the final rule.

OCC and OTS Executive Order 12866 Statement

The OCC and OTS each have independently determined that the final rule is not a ''significant regulatory action'' as defined in Executive Order 12866. Accordingly, a regulatory assessment is not required.

OCC and OTS Unfunded Mandates Act of 1995 Statement

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), requires the OCC and OTS to prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. However, this requirement does not apply to regulations that incorporate requirements specifically set forth in law. Because this final rule implements section 610 of the FSRRA, the OTS and OCC have not conducted an Unfunded Mandates Analysis for this rulemaking.

List of Subjects

12 CFR Part 26

Antitrust, Holding companies, National banks.

12 CFR Part 212

Antitrust, Banks, Banking, Holding companies.

12 CFR Part 348

Antitrust, Banks, Banking, Holding companies.

12 CFR Part 563f

Antitrust, Holding companies, Reporting and recordkeeping requirements, Savings associations.

[1] Each of the Agencies' regulations generally define ''management official'' to include a director, an advisory or honorary director of a depository institution with total assets of $100 million or more, a senior executive officer, a branch manager, a trustee of a depository organization under the control of trustees, and any person who has a representative or nominee serving in such capacity. *See* 12 CFR 26.2(j) (OCC); 12 CFR 212.2(j) (Board); 12 CFR 348.2(j) (FDIC); and 12 CFR 563f.2(j) (OTS).

[2] Pub. L. 109–351, section 610, 120 Stat. 1966 (Oct. 13, 2006).

[3] *See* 72 FR 1274, Jan. 11, 2007.

Office of the Comptroller of the Currency

12 CFR Chapter I

PART 26—MANAGEMENT OFFICIAL INTERLOCKS

■ Accordingly, the interim rule amending 12 CFR Part 26 which was published at 72 FR 1276 on January 11, 2007, is adopted as a final rule without change.

Federal Reserve System

12 CFR Chapter II

PART 212—MANAGEMENT OFFICIAL INTERLOCKS

■ Accordingly, the interim rule amending 12 CFR Part 212 which was published at 72 FR 1276 on January 11, 2007, is adopted as a final rule without change.

Federal Deposit Insurance Corporation

12 CFR Chapter III

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

■ Accordingly, the interim rule amending 12 CFR Part 348 which was published at 72 FR 1276 on January 11, 2007, is adopted as a final rule without change.

Office of Thrift Supervision

12 CFR Chapter V

PART 563f—MANAGEMENT OFFICIAL INTERLOCKS

■ Accordingly, the interim rule amending 12 CFR Part 563f which was published at 72 FR 1276 on January 11, 2007, is adopted as a final rule without change.

Dated: May 11, 2007.

John C. Dugan,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, July 10, 2007.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, this 19th day of June, 2007.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

By the Office of Thrift Supervision, May 8, 2007.

John M. Reich,

Director.

[FR Doc. 07–3441 Filed 7–13–07; 8:45 am]

BILLING CODE 4810–33–P; 6210–01–P; 6714–01–P; 6720–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30558 Amdt. No. 3225]

Standard Instrument Approach Procedures, Weather Takeoff Minimums; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) and/or Weather Takeoff Minimums for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective July 16, 2007. The compliance date for each SIAP and/or Weather Takeoff Minimums is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 16, 2007.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located;

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP and Weather Takeoff Minimums copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs and Weather Takeoff Minimums mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), establishes, amends, suspends, or revokes SIAPs and/or Weather Takeoff Minimums. The complete regulatory description of each SIAP and/or Weather Takeoff Minimums is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part 97.20. The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, 8260–5 and 8260–15A. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs and/or Weather Takeoff Minimums, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs and/or Weather Takeoff Minimums but refer to their depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP and/or Weather Takeoff Minimums contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs and/or Weather Takeoff Minimums. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and/or Weather Takeoff Minimums as contained in the transmittal. Some SIAP and/or Weather Takeoff Minimums amendments may have been previously issued by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP, and/or Weather Takeoff Minimums amendments may require making them effective in less than 30 days. For the remaining SIAPs and/or Weather Takeoff Minimums, an effective date at least 30 days after publication is provided.

Further, the SIAPs and/or Weather Takeoff Minimums contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and/or Weather Takeoff Minimums, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and/or Weather Takeoff Minimums and safety in air commerce, I find that notice and public procedure before adopting these SIAPs and/or Weather Takeoff Minimums are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs and/or Weather Takeoff Minimums effective in less than 30 days.

Conclusion

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. It, therefore—(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. For the same reason, the FAA certifies that this amendment 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 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on June 29, 2007.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, under Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures and Weather Takeoff Minimums effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 30 Aug 2007

Little Rock, AR, Adams Field, LOC RWY 22L, Orig
Little Rock, AR, Adams Field, ILS RWY 22L, Amdt 3A, CANCELLED
Glendale, AZ, Glendale Muni, RNAV (GPS) RWY 19, Amdt 1
Glendale, AZ, Glendale Muni, Takeoff Minimums and Obstacle DP, Amdt 2
Tucson, AZ, Tucson Intl, ILS OR LOC RWY 11L, Amdt 14
Tucson, AZ, Tucson Intl, LOC/DME BC RWY 29R, Amdt 8
Bishop, CA, Eastern Sierra Rgnl, RNAV (RNP) RWY 30, Orig
Hanford, CA, Hanford Muni, RNAV (GPS) RWY 32, Orig–A
San Francisco, CA, San Francisco Intl, RNAV (RNP) Y RWY 10R, Orig
Madison, CT, Griswold, VOR OR GPS–A, Amdt 8, CANCELLED
Washington, DC, Washington Dulles Intl, RNAV (RNP) Z RWY 1L, Orig
Washington, DC, Washington Dulles Intl, RNAV (RNP) Z RWY 1R, Orig
Washington, DC, Washington Dulles Intl, RNAV (RNP) Z RWY 19L, Orig
Washington, DC, Washington Dulles Intl, RNAV (RNP) Z RWY 19R, Orig
Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 19L, Amdt 1
Washington, DC, Washington Dulles Intl, RNAV (GPS) Y RWY 19R, Amdt 2
Gainesville, FL, Gainesville Rgnl, RNAV (GPS) RWY 7, Amdt 1
Gainesville, FL, Gainesville Rgnl, RNAV (GPS) RWY 25, Amdt 1
Miami, FL, Miami Intl, ILS OR LOC RWY 8R, Amdt 30
Miami, FL, Miami Intl, ILS OR LOC RWY 9, Amdt 10
Miami, FL, Miami Intl, ILS OR LOC RWY 12, Amdt 5
Miami, FL, Miami Intl, ILS OR LOC RWY 26L, Amdt 15
Miami, FL, Miami Intl, ILS OR LOC RWY 27, Amdt 24
Miami, FL, Miami Intl, ILS OR LOC RWY 30, Amdt 1
Miami, FL, Miami Intl, RNAV (GPS) Z RWY 8R, Amdt 1
Miami, FL, Miami Intl, RNAV (GPS) Z RWY 9, Amdt 1
Miami, FL, Miami Intl, RNAV (GPS) Z RWY 12, Amdt 1
Miami, FL, Miami Intl, RNAV (GPS) Z RWY 26L, Amdt 1
Miami, FL, Miami Intl, RNAV (GPS) Z RWY 27, Amdt 1
Miami, FL, Miami Intl, RNAV (GPS) Z RWY 30, Amdt 1
Miami, FL, Miami Intl, RNAV (RNP) Y RWY 8R, Orig
Miami, FL, Miami Intl, RNAV (RNP) Y RWY 9, Orig
Miami, FL, Miami Intl, RNAV (RNP) Y RWY 12, Orig
Miami, FL, Miami Intl, RNAV (RNP) Y RWY 26L, Orig
Miami, FL, Miami Intl, RNAV (RNP) Y RWY 27, Orig
Miami, FL, Miami Intl, RNAV (RNP) Y RWY 30, Orig
Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, RNAV (GPS) RWY 14, Amdt 1
Sarasota (Bradenton), FL, Sarasota/Bradenton Intl, RNAV (GPS) RWY 32, Amdt 1
Albany, GA, Southwest Georgia Regional, VOR OR TACAN RWY 16, Amdt 26
Albany, GA, Southwest Georgia Regional, VOR/DME RNAV OR GPS RWY 34, Amdt 4, CANCELLED
Gainesville, GA, Lee Gilmer Memorial, RNAV (GPS) RWY 4, Orig
Gainesville, GA, Lee Gilmer Memorial, RNAV (GPS) RWY 22, Orig
Gainesville, GA, Lee Gilmer Memorial, NDB RWY 4, Amdt 5
Gainesville, GA, Lee Gilmer Memorial, Takeoff Minimums and Obstacle DP, Amdt 1
Jefferson, GA, Jackson County, RNAV (GPS) RWY 16, Orig
Jefferson, GA, Jackson County, RNAV (GPS) RWY 34, Orig
Jefferson, GA, Jackson County, GPS RWY 16, Orig, CANCELLED
Jefferson, GA, Jackson County, GPS RWY 34, Orig, CANCELLED
Perry, GA, Perry-Houston County, RNAV (GPS) RWY 18, Orig
Perry, GA, Perry-Houston County, RNAV (GPS) RWY 36, Orig
Hyannis, MA, Barnstable Muni-Boardman/Polando Field, VOR RWY 6, Amdt 9
Baltimore, MD, Baltimore/Washington Intl Thurgood Marshal, RNAV (RNP) Z RWY 33L, Orig
Baltimore, MD, Martin State, ILS OR LOC RWY 33, Amdt 7
Easton, MD, Easton/Newnam Field, RNAV (GPS) RWY 4, Orig
Easton, MD, Easton/Newnam Field, ILS OR LOC/DME RWY 4, Amdt 1
Easton, MD, Easton/Newnam Field, Takeoff Minimums and Obstacle DP, Orig
Bar Harbor, ME, Hancock County-Bar Harbor, RNAV (GPS) RWY 22, Orig

Bar Harbor, ME, Hancock County-Bar Harbor, ILS OR LOC RWY 22, Amdt 5
Bad Axe, MI, Huron County Memorial, RNAV (GPS) RWY 17, Orig
Bad Axe, MI, Huron County Memorial, RNAV (GPS) RWY 35, Orig
Bad Axe, MI, Huron County Memorial, VOR RWY 35, Amdt 1
Detroit Lakes, MN, Detroit Lakes-Wething Field, RNAV (GPS) RWY 13, Amdt 1
Detroit Lakes, MN, Detroit Lakes-Wething Field, RNAV (GPS) RWY 31, Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold Chamb, ILS RWY 4, Amdt 27, CANCELLED
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold Chamb, LOC RWY 4, Orig
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold Chambe, CONVERGING ILS RWY 35, Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold Chamb, ILS OR LOC RWY 35, Amdt 1, ILS RWY 35 (CAT II), ILS RWY 35 (CATIII)
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold Chamb, RNAV (GPS) Z RWY 35, Amdt 1
Minneapolis, MN, Minneapolis-St. Paul Intl/Wold Chamb, RNAV (RNP) Y RWY 35, Orig
Poplar Bluff, MO, Poplar Bluff Muni, RNAV (GPS) RWY 18, Orig
Poplar Bluff, MO, Poplar Bluff Muni, RNAV (GPS) RWY 36, Orig
Poplar Bluff, MO, Poplar Bluff Muni, GPS RWY 18, Orig–B, CANCELLED
Poplar Bluff, MO, Poplar Bluff Muni, GPS RWY 36, Orig–A, CANCELLED
Poplar Bluff, MO, Poplar Bluff Muni, Takeoff Minimums and Obstacle DP, Amdt 1
Potosi, MO, Washington County Airport, RNAV (GPS) RWY 2, Orig–A
Potosi, MO, Washington County Airport, RNAV (GPS) RWY 20, Orig–A
St Louis, MO, Lambert-St Louis Intl, LDA/DME RWY 12L, Amdt 5
Pascagoula, MS, Trent Lott Intl, Takeoff Minimums and Obstacle DP, Orig
Grand Forks, ND, Grand Forks Intl, RNAV (GPS) RWY 8, Orig
Grand Forks, ND, Grand Forks Intl, RNAV (GPS) RWY 26, Amdt 1
Reno, NV, Reno/Stead, GPS–B, Orig, CANCELLED
Buffalo, NY, Buffalo Niagara Intl, NDB RWY 5, Amdt 11, CANCELLED
Buffalo, NY, Buffalo Niagara Intl, Takeoff Minimums and Obstacle DP, Amdt 5
Austin, TX, Austin-Bergstrom Intl, ILS OR LOC RWY 17R, Amdt 3
Austin, TX, Austin-Bergstrom Intl, ILS OR LOC RWY 35L, Amdt 4
Charlottesville, VA, Charlottesville-Albemarle, RNAV (GPS) RWY 3, Amdt 2
Newport News, VA, Newport News/Williamsburg Intl, VA, LOC/DME RWY 20, Orig
Newport News, VA, Newport News/Williamsburg Intl, Takeoff Minimums and Obstacle DP, Orig
Richmond/Ashland, VA, Hanover County Muni, RNAV (GPS) RWY 16, Orig
Richmond/Ashland, VA, Hanover County Muni, GPS RWY 16, Amdt 1B, CANCELLED
Richmond, VA, Richmond Intl, ILS OR LOC RWY 34, Amdt 13C, ILS RWY 34 (CAT II), ILS RWY 34 (CATIII)
Hoquiam, WA, Bowerman, ILS OR LOC/DME RWY 24, Amdt 2
Hoquiam, WA, Bowerman, RNAV (GPS) RWY 6, Orig
Hoquiam, WA, Bowerman, RNAV (GPS) RWY 24, Orig
Hoquiam, WA, Bowerman, VOR/DME RWY 24, Amdt 6
Hoquiam, WA, Bowerman, VOR RWY 6, Amdt 15
Baraboo, WI, Baraboo Wisconsin Dells, RNAV (GPS) RWY 1, Orig
Baraboo, WI, Baraboo Wisconsin Dells, RNAV (GPS) RWY 19, Orig
Baraboo, WI, Baraboo Wisconsin Dells, GPS RWY 1, Orig, CANCELLED
Menomonie, WI, Menomonie Municipal-Score Field, VOR/DME RWY 27, Amdt 1
Menomonie, WI, Menomonie Municipal-Score Field, GPS RWY 27, Orig, CANCELLED
Cheyenne, WY, Cheyenne Regional/Jerry Olson Field, ILS OR LOC RWY 27, Amdt 34A
Cheyenne, WY, Cheyenne Regional/Jerry Olson Field, RNAV (GPS) RWY 9, Orig–A
Cheyenne, WY, Cheyenne Regional/Jerry Olson Field, RNAV (GPS) RWY 13, Orig–A
Cheyenne, WY, Cheyenne Regional/Jerry Olson Field, RNAV (GPS) RWY 27, Orig–B
Cheyenne, WY, Cheyenne Regional/Jerry Olson Field, RNAV (GPS) RWY 31, Orig–A

[FR Doc. E7–13224 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 38 and 284

[Docket Nos. RM96–1–027 and RM05–5–001; Order No. 698]

Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities

Issued June 25, 2007.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is amending its open access regulations governing standards for business practices and electronic communications with interstate natural gas pipelines and public utilities. The Commission is incorporating by reference certain standards promulgated by the Wholesale Gas Quadrant (WGQ) and the Wholesale Electric Quadrant (WEQ) of the North American Energy Standards Board (NAESB). Through this rulemaking, the Commission is seeking to improve coordination between the gas and electric industries in order to improve communications about scheduling of gas-fired generators.

DATES: *Effective Dates:* This rule will become effective August 15, 2007. Natural gas pipelines and public utilities are required to implement these standards and file a statement demonstrating compliance by November 1, 2007.

FOR FURTHER INFORMATION CONTACT:

Michael Goldenberg, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–502–8685.

Kay Morice, Office of Energy Markets and Reliability, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, 202–502–6507.

SUPPLEMENTARY INFORMATION:

Table of Contents

	Paragraph Nos.
I. Background	2
II. Discussion	10
A. Incorporation by Reference of NAESB Standards	10
1. Terminology	17
2. WEQ Standard 011–0.1/WGQ Standard 0.2.1	22
3. WEQ Standard 011–1.2/WGQ Standard 0.3.12	24
4. WEQ Standard 011–1.3/WGQ Standard 0.3.13	28

Paragraph Nos.

5. WEQ Standard 011–1.4 and WGQ Standard 0.3.14 35
6. WEQ Standard 011–1.5 37
7. WEQ Standard 011–1.6/WGQ Standard 0.3.15 42
8. Additional Issue 48
B. Additional Issues Raised by NAESB 50
1. Use of Gas Indices for Pricing Capacity Release Transactions 51
2. Pipelines' Ability to Permit Shippers to Choose Alternate Delivery Points 58
3. Changes to the Intraday Nomination Gas Schedule 64
III. Implementation Dates and Procedures 70
IV. Notice of Use of Voluntary Consensus Standards 71
V. Information Collection Statement 72
VI. Environmental Analysis 78
VII. Regulatory Flexibility Act 79
VIII. Document Availability 80
IX. Effective Date and Congressional Notification 82

1. The Federal Energy Regulatory Commission (Commission) is amending parts 38 and 284 of its open access regulations governing standards for business practices and electronic communications with interstate natural gas pipelines and public utilities. The Commission is incorporating by reference certain standards promulgated by the North American Energy Standards Board (NAESB).[1] Incorporation by reference of these standards will establish communication protocols between interstate pipelines and power plant operators and transmission owners and operators. This will help improve coordination between the gas and electric industries in order to improve communications about scheduling of gas-fired generators. Improved communications should enhance reliability in both industries.

I. Background

2. NAESB is a non-profit, private standards development organization established in January 2002 to develop voluntary standards and model business practices designed to promote more competitive and efficient natural gas and electric service. Since 1995, NAESB and its predecessor, the Gas Industry Standards Board, have been accredited members of the American National Standards Institute (ANSI), complying with ANSI's requirements that its standards reflect a consensus of the affected industries.

3. NAESB's standards include business practices that streamline the transactional processes of the natural gas and electric industries, as well as communication protocols and related standards designed to improve the efficiency of communication within each industry. NAESB supports all four quadrants of the gas and electric industries—wholesale gas, wholesale electricity, retail gas, and retail electricity—and recognizes the ongoing convergence of the gas and electric businesses by ensuring that its standards receive the input of all industry quadrants when appropriate. All participants in the gas and electric industries are eligible to join NAESB, belong to one or more quadrant(s), and participate in standards development.

4. NAESB's Wholesale Gas Quadrant (WGQ) is composed of five industry segments: Pipelines, producers, local distribution companies, end users, and services (including marketers and computer service companies). NAESB's Wholesale Electric Quadrant (WEQ) now includes six industry segments: Transmission, generation, marketer/brokers, distribution/load serving entities, end users, and independent grid planners/operators. NAESB's procedures ensure that all industry members can have input into the development of a standard, whether or not they are members of NAESB, and each standard NAESB adopts is supported by a consensus of the relevant industry segments.

5. Since 1996, in Order No. 587 and subsequent orders, the Commission, through its notice-and-comment rulemaking process, adopted relevant gas standards by incorporating these standards by reference into its regulations.[2] On April 25, 2006, the Commission by a similar process incorporated by reference the first set of NAESB electric standards.[3]

6. In January 2004, a cold snap highlighted the need for better coordination and communication between the gas and electric industries as coincident peaks occurred in both industries making the acquisition of gas and transportation by power plant operators more difficult. In response to this need, in early 2004, NAESB established a Gas-Electric Coordination Task Force to examine issues related to the interrelationship of the gas and electric industries and identify potential areas for improved coordination through standardization. Because of the importance of such coordination, the NAESB Board of Directors established a Gas-Electric Interdependency Committee in September 2004 to review coordination issues and identify potential areas for standards development.

7. As a result of these efforts, on June 27, 2005, NAESB filed a status report with the Commission. The report included ten business practice standards jointly developed by the wholesale gas and electric quadrants,[4] the first such collaboration between the two quadrants. The standards, in general, address communication processes between pipelines, power plant operators, and transmission operators.[5]

8. Additionally, the report highlighted 13 issues involving gas and electric interdependency. On February 24, 2006, NAESB filed a final report (Final

[1] The standards for the Wholesale Electric Quadrant are: Gas/Electric Coordination Standards WEQ–001–0.1 through WEQ–011–0.3 and WEQ–011–1.1 through WEQ–011–1.6. The standards for the Wholesale Gas Quadrant are: Additional Standards, Definitions 0.2.1 through 0.2.3 and Standards 0.3.11 through 0.3.15.

[2] *Standards For Business Practices Of Interstate Natural Gas Pipelines,* Order No. 587, 61 FR 39053 (July 26, 1996), FERC Stats. & Regs., Regulations Preambles July 1996–December 2000 ¶ 31,038 (July 17, 1996).

[3] *Standards for Business Practices and Communication Protocols for Public Utilities,* Order No. 676, 71 FR 26199 (May 4, 2006), FERC Stats. & Regs. ¶ 31,216 (Apr. 25, 2006).

[4] Seven of these ten standards apply to both the gas and electric industries.

[5] On June 28, 2006, NAESB filed a report advising that the following permanent numbers have been assigned to these standards. The standards for the Wholesale Electric Quadrant are Gas/Electric Coordination Standards WEQ–011–0.1 through WEQ–011–0.3 and WEQ–011–1.1 through WEQ–011–1.6. The standards for the Wholesale Gas Quadrant are: Additional Standards, Definitions 0.2.1 through 0.2.3 and Standards 0.3.11 through 0.3.15.

Report) with the Commission on the efforts of the Gas-Electric Interdependency Committee. Based on the 13 issues, the Final Report identified six potential areas where Commission guidance could assist NAESB in developing new or updated business practices to improve coordination between the gas and electric industries.

9. On October 25, 2006, the Commission issued a Notice of Proposed Rulemaking (NOPR) [6] that proposed to incorporate by reference the WEQ's standards, Gas/Electric Coordination Standards WEQ–011–0.1 through WEQ–011–0.3 and WEQ–011–1.1 through WEQ–011.1.6 and the WGQ's standards, Additional Standards, Definitions 0.2.1 through 0.2.3 and Standards 0.3.11 through 0.3.15. The Commission also provided guidance on the six areas of potential standards development addressed by NAESB. Fifteen comments [7] and one reply comment were filed.[8]

II. Discussion

A. Incorporation by Reference of NAESB Standards

10. The Commission is amending parts 38 and 284 of its regulations to incorporate by reference the NAESB WEQ and WGQ definitions and business practice standards providing for coordination and communication between natural gas pipelines and the various electric industry operators, including Regional Transmission Organizations (RTOs), Independent System Operators (ISOs) and gas-fired generators. The Commission also is amending section 38.1 so that it applies to public utilities that own, operate or control facilities used to effectuate wholesale power sales.

11. Pipelines and public utilities are required to implement these standards by November 1, 2007. However, pipelines and public utilities are not required to make tariff filings to include these standards in their tariffs at this time. These standards will be included in tariffs when the pipelines and utilities file to incorporate into their tariffs the next revised version of the NAESB standards. However, for the two standards requiring communication procedures to be established,[9] the Commission is requiring pipelines and public utilities to demonstrate compliance by filing a statement by November 1, 2007, as to whether they have established the required procedures.

12. The coordination and communication required by these standards will help improve the reliability of both the gas and electric industries by ensuring that all parties have information necessary for the scheduling and dispatch of natural gas-fired generation, and for the scheduling of the natural gas transportation necessary to supply fuel to these generators. The standards, for example, would require gas-fired power plant operators and pipelines to establish procedures to communicate material changes in circumstances that may affect hourly flow rates. These standards ensure that pipelines have relevant planning information that will assist in maintaining the operational integrity and reliability of pipeline service, as well as providing gas-fired power plant operators with information as to whether hourly flow deviations can be honored.

13. The standards further improve communication by requiring electric transmission operators and power plant operators to sign up to receive from connecting pipelines operational flow orders and other critical notices. These standards ensure that operators of the electric grid can stay abreast of developments on gas pipelines that can affect the reliability of electric service. The standards require that, upon request, a gas-fired power plant operator must provide to the appropriate independent electric balancing authority or electric reliability coordinator pertinent information regarding its service levels for gas transportation (firm or interruptible) and for gas supply (firm, fixed or variable quantity, or interruptible). This information should assist reliability coordinators in assessing the relative reliability of various gas-fired generators.

14. A consensus of the industry considered this language in NAESB's balanced process beginning in 2004 and leading up to NAESB's filing on June 27, 2005. All parties were welcome to participate in this process and participation was broad. No party expresses concern or otherwise indicates that NAESB's process was flawed.

15. As the Commission found in Order Nos. 587 and 676, adoption of consensus standards is appropriate because the consensus process helps ensure the reasonableness of the standards by requiring that the standards draw support from a broad spectrum of all segments of the industry. Moreover, since the industry itself has to conduct business under these standards, the Commission's regulations should reflect those standards that have the widest possible support. In section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTT&AA), Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as means to carry out policy objectives or activities.[10]

16. A majority of commenters support the Commission's goal of increased communication between the gas and electric industries, and therefore do not object to incorporation of the standards into the Commission's regulations.[11] Dominion states that the communication requirements are important, and asks that the Commission continue to develop policies that provide for even greater levels of gas-electric coordination. Some participants, while not objecting to the standards, raise concerns and suggest changes to the language. These issues are addressed below.

1. Terminology

Comments

17. IRC comments that NAESB's standards use a number of terms not commonly used in the electric industry (such as ''Power Plant Operator'') and suggests that the Commission direct NAESB to adopt the terminology in the North American Electric Reliability Council (NERC) Functional Model, which contains a detailed set of functional definitions, in order to eliminate any potential for confusion.[12]

---

[6] *Standards for Business Practices for Interstate Natural Gas Pipelines; Standards for Business Practices for Public Utilities,* 71 FR 64,655 (Nov. 3, 2006).

[7] Those filing comments are: The ISO/RTO Council (IRC), the Interstate Natural Gas Association of America (INGAA), ISO New England (ISO–NE), NiSource Gas Transmission and Storage (NiSource), FPL Energy, LLC (FPL Energy), Electric Power Supply Association (EPSA), Tennessee Valley Authority (TVA), Florida Cities, El Paso Corporation Pipeline Group (El Paso), Salt River Project Agricultural Improvement and Power District (Salt River), Natural Gas Supply Association (NGSA), Duke Energy Gas Transmission, LLC (Duke), American Gas Association (AGA), the Carolina Gas Transmission Corporation (Carolina Gas), and Dominion Resources, Inc. (Dominion).

[8] AGA filed reply comments.

[9] These standards are WEQ Standard 011–1.2/WGQ Standard 0.3.12; and WEQ Standard 011–1.6/WGQ Standard 0.3.15.

[10] Pub L. No. 104–113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. 272 note (1997).

[11] *E.g.,* AGA, Carolina Gas, Dominion, Duke, El Paso, EPSA, Florida Cities, FPL Energy, INGAA, IRC, NiSource, Salt River, and TVA.

[12] IRC Comments at 2. The ''functional definitions'' referred to by IRC are available on the Web site of the North American Electric Reliability Council at *http://www.nerc.com/~filez/functionalmodel.html.*

18. IRC also states that as currently drafted, the standards appear to apply terms inconsistently, noting that the standards appear to substitute the term ''independent Balancing Authority'' for ISOs/RTOs in some instances. IRC argues that the NAESB standards require ISOs/RTOs to bear significant responsibilities, but do not appear to require balancing authorities other than ISOs/RTOs or certain other independent entities to carry out responsibilities under the standards. IRC also notes that the standards include references to other NAESB standards that are not specifically identified, *i.e.* references to other ''related'' WGQ standards without providing any indication of which standards are ''related.'' [13]

19. ISO–NE suggests additional definitions be added to the WEQ and WGQ standards. It proposes a new Definition D4, which would define ''Directly Connected TSP'', and a new Definition D5, which would identify ''Communication Standards.'' Definition D5 would be used to supplement WEQ Standard 011–1.1/WGQ Standard 0.3.11, and, in ISO–NE's view, these definitions would create greater consistency and clarity among the standards.

Commission Determination

20. We do not find a need to revise the terminology used in the standards. Those protesting the terminology do not object to the substance of the standards. All of the relevant parties were, or could have been, involved in the drafting of the standards, and the definitions and terminology used in the standards reflect a consensus of the industry. The language used in the standards is clear, and those parties that think the language could be made even more precise can seek such clarifications and revisions through the NAESB process so that the implications of such changes can be considered by all segments.[14]

21. Indeed, since NAESB filed its report, it has added a segment to its WEQ for Independent Grid Operators/Planners, and as of April 5, ten parties have joined this segment, including the California ISO, the Electric Reliability Council of Texas, the Independent Electricity System Operator, ISO–NE, the Midwest Independent Transmission System Operator, the New York Independent System Operator, PJM Interconnection, the Southwest Power Pool, Transerv International, and the Alberta Electric System Operator. We encourage parties with concerns about the standards to bring their suggestions to the WEQ and the WGQ.

2. WEQ Standard 011–0.1/WGQ Standard 0.2.1

22. WEQ Standard 011–0.1/WGQ Standard 0.2.1 defines the term ''Power Plant Operator'' as the entity(ies) having responsibility for natural gas requirements and coordinating deliveries to meet those requirements at natural gas-fired electric generating facility(ies). ISO–NE comments that the standard presumes that the entity that has direct control over the gas requirements for a gas-fired electric generating facility is always the same entity that is responsible for coordinating natural gas deliveries with the appropriate transportation service provider. ISO–NE notes that, in fact, these two requirements may be handled by different parties and requests that this definition be modified to accommodate such possibilities.

23. We find the standard to be sufficiently clear. Contrary to ISO–NE's assertion that the standard presumes that the same entity that has direct control over the gas requirements for a gas-fired electric generating facility is always the same entity that is responsible for coordinating with the appropriate transportation service provider, the standard clearly uses the plural ''entity(ies)'' when defining ''PPO.'' The standard also states that ''Because each [power plant operator] is structured differently, specific responsibilities within each [power plant operator] should be determined by the [power plant operator] and the point of contact for the [power plant operator] should be communicated to the [transportation service provider(s)].''

3. WEQ Standard 011–1.2/WGQ Standard 0.3.12

24. WEQ Standard 011–1.2/WGQ Standard 0.3.12 directs the power plant operator and the transportation service provider directly connected to the power plant operator's facility(ies) to establish procedures to communicate material changes in circumstances that may impact hourly flow rates, and the power plant operator to provide projected hourly flow rates accordingly.

Comments

25. ISO–NE states that the standard requires power plant operators to provide hourly flow rates but does not specify to whom. ISO–NE suggests that the standard be modified to specify that the directly-connected transportation service provider is the party intended to receive hourly flow rates from the power plant operator. NiSource expresses concern over the requirement that pipelines convey ''material changes in circumstance that may impact hourly flow rates.'' It asserts that there are many variables that ''may'' impact hourly flow rates. In addition, NiSource notes that the standard requires the pipeline and the power plant operator to establish communication procedures regarding this information, yet does not provide any guidance as to the type of procedures that should be created. NiSource asks that the Commission clarify that pipelines will be able to raise objections with respect to this language in any future dispute proceedings.[15]

Commission Determination

26. We disagree that with ISO–NE that the standard needs further clarification to specify that the directly-connected transportation service provider is the party intended to receive hourly flow rates from the power plant operator. The standard specifically refers to communications procedures between the power plant operator and the directly-connected transportation service provider, so that it is clear that the hourly flow rates need to be communicated to the directly-connected transportation service provider.

27. With respect to NiSource's comment, the pipeline will need to determine which events materially affect hourly flow rates and communicate those events to the power plant operators. Pipelines are already required by NAESB standards to use judgment in issuing system-wide notices that impact pipeline operations, and this requirement is not different.[16] Similarly, the communications procedures should be established between the pipeline and the power plant operator. Pipelines and power plant operators should have the flexibility to establish the procedures they deem most efficient. NiSource will be able to negotiate the details when it works with relevant power plant operators to establish the communication procedures required by this standard.

4. WEQ Standard 011–1.3/WGQ Standard 0.3.13

28. WEQ Standard 011–1.3/WGQ Standard 0.3.13 states that power plant operators should not operate without an approved scheduled quantity pursuant to the NAESB WGQ standard nomination timeline and scheduling processes or as permitted by the

[13] *Id.* at 3.

[14] Order No. 676, 71 FR 26199, FERC Stats. & Regs. ¶ 31,216, at P 17.

[15] NiSource Comments at 6–7.

[16] 18 CFR 284.12(a)(vi) Capacity Release Related Standards, Standard 5.4.16 (system wide notices).

transportation service provider's tariff, general terms and conditions, and/or contract provisions. The standard further states that if the power plant operator reasonably determines it has circumstances requiring the need to request gas scheduling changes outside the WGQ nomination and scheduling processes, and the transportation service provider supports the processing of such changes, the power plant operator may request daily flow rates as established by either the communication procedures established in the standards or as specified in the transportation service provider's tariff or general terms and conditions. The standard states that the power plant operator and all affected transportation service providers should work to resolve the power plant operator's request if it can be accommodated (1) in accordance with the appropriate application of the affected transportation service provider's tariff requirement, contract provisions, business practices, or other similar provisions, and (2) without adversely impacting other scheduled services, anticipated flows, no-notice services, firm contract requirements and/or general system operations.

Comments

29. IRC comments that the standard suggests that transportation service providers may be granting service to power plant operators outside of normal Open Access Same-Time Information Systems (OASIS) posting requirements. IRC submits that, in order to ensure transparency and compliance with the Commission's rules, any communications between the transportation service provider and power plant operator must also adhere to the Commission's OASIS posting requirements and its Standards of Conduct regulations.

30. ISO–NE asserts that the standard states in part that a power plant operator should not operate without an approved schedule, and suggests that, in order to avoid confusion with the electric scheduling process, this standard be modified to specify that it is referring to the ''approved gas schedule'' and ''gas scheduling processes''. ISO-NE also recommends that the directly-connected transportation service provider is the party intended to receive hourly flow rates from the power plant operator.

31. NiSource comments that the type of procedure to be established between a pipeline and a power plant operator to communicate hourly flow rate information is not clear, and that it wishes to preserve its ability to object to any power plant operator requests for unreasonable communications procedures.[17] NiSource also states that the standard does not unambiguously state that a pipeline that does not provide for a special nomination cycle in its tariff does not have to accommodate such a request.

Commission Determination

32. The purpose of this standard is to provide for greater flexibility in scheduling pipeline transportation in circumstances in which the pipeline is able to accommodate such flexibility. Regarding IRC's concern about compliance with Commission regulations, nothing in this standard grants a waiver from the Commission's standards of conduct or other regulations. The IRC's reference to the OASIS is not clear, since these are gas transactions between the power plant operator and the pipeline, not OASIS scheduling requests.

33. We disagree with ISO-NE's argument that the standard is ambiguous or confusing. The standard's language regarding scheduling clearly concerns scheduled quantities of gas pursuant to the NAESB WGQ standard nomination timeline.

34. With respect to NiSource's concern about communication details, as we explained above, we find it more appropriate for the pipeline and the power plant operator to work out the most efficient method for communicating any such scheduling requests. With respect to NiSource's concern about its obligations, the standard clearly states that, if the pipeline supports the processing of such special requests, it must work to resolve such requests if they can be accommodated in accordance with the appropriate application of the affected pipeline's tariff requirement, contract provisions, business practices, or other similar provisions, and without adversely impacting other scheduled services, anticipated flows, no-notice services, firm contract requirements and/or general system operations. We find that these conditions provide reasonable and appropriate protections for the pipelines.

5. WEQ Standard 011–1.4 and WGQ Standard 0.3.14

35. WEQ Standard 011–1.4 requires RTOs, ISOs, independent transmission operators and/or power plant operators to sign up to receive operational flow orders and other critical notices from the appropriate transportation service provider(s), and WGQ Standard 0.3.14 requires transportation service providers to provide operational flow orders and other critical notices to RTOs, ISOs, independent transmission operators, and power plant operators. ISO-NE argues that the terms RTOs, ISOs and independent transmission operators in these standards should be replaced with ''balancing authorities''. ISO-NE states that RTOs/ISOs should not bear a higher burden of responsibility than other balancing authorities in this context.

36. These standards require only that RTOs, ISOs and independent transmission operators need to sign up to receive information from pipelines about operational flow orders that may affect gas-fired generators on their systems. The genesis for the development of these standards was the coordination problems between the gas industry and the scheduling practices of ISOs and RTOs, particularly the problems faced by gas-fired generators in ISO–NE during the 2004 cold snap. These standards along with the other standards will help ensure that, in the event of a recurrence of such circumstances, the RTOs, ISOs, and independent transmission operators will be fully informed of conditions that may affect the reliable performance of generators on their systems. ISO–NE does not explain why RTOs, ISOs, and independent transmission operators should be exempt from the requirement to receive information that may have a crucial impact on the reliability of the operation of their systems.[18] Nor does ISO–NE provide evidence that the same scheduling problems affected balancing authorities that are not RTOs, ISOs, independent transmission operators or power plant operators, such that they too should be required to sign up to receive operational flow orders and other critical notices from transportation service providers. If ISO–NE believes the standard should be expanded to include all balancing authorities, it should seek such changes from NAESB, so that all industry segments can participate in the determination.

6. WEQ Standard 011–1.5

37. The standard requires that, upon request, a power plant operator must provide to the appropriate independent balancing authority and/or reliability coordinator pertinent information concerning the level of gas transportation service (firm or interruptible) and its natural gas supply (firm, fixed or variable quantity, or interruptible).

[17] NiSource Comments at 9.

[18] All RTOs and ISOs, for example, are not necessarily balancing authorities.

Comments

38. Florida Cities states that due to the commercially sensitive nature of this information operators should only be required to divulge the information needed to ensure the reliable operation of the transmission grid, and no more (*i.e.*, an electric balancing authority asking for supply and transportation information for the immediate future rather than day-ahead). In addition, Florida Cities asks the Commission to clarify how it will be determined which entity or entities will be authorized to request this information, and with what frequency they may do so.[19]

39. FPL Energy does not support the standard, commenting that it would create a way for electric balancing authorities and reliability coordinators to rank power supplies based on perceived reliability. In FPL Energy's view this would put merchant generators that are unable to contract for long-term firm gas pipeline capacity at a disadvantage in competing for power sales versus utility sales and sales from non-gas power suppliers.[20] FPL Energy requests that the Commission refrain from adopting such a protocol until a mechanism that would compensate merchant generators for holding long-term firm capacity on gas pipelines is established.

Commission Determination

40. We find that the standard is appropriate and does not require improper sharing of commercially sensitive information with competitors. The standard as written only requires power plant operators to provide information regarding its gas transportation and performance obligation to *independent* balancing authorities and/or reliability coordinators.

41. Regarding FPL Energy's concern that independent balancing authorities and/or reliability coordinators might choose to rank generators based on reliability of gas supply, it is not clear that the information will be used for that purpose. Increased communication and information about natural gas deliverability should help system operators understand potential operating problems on their system. Moreover, even if the information were used for ranking, as FPL Energy argues, FPL Energy has not shown why access to firm pipeline transportation should not be used as part of the analysis of the reliability of a gas fired generation. A generator with firm transportation and a firm gas supply generally would be more likely to be able to obtain gas when pipelines are constrained than generators relying solely on interruptible transportation. Moreover, as discussed above, the independence of the balancing authority and reliability coordinator will help ensure that the information is used appropriately. The benefits from enhanced communication about natural gas deliverability outweigh the potential that in a particular circumstance an independent balancing authority or reliability coordinator will use the information inappropriately. If FPL Energy believes an independent balancing authority or reliability coordinator in a particular circumstance has used such information inappropriately, it can file a complaint.

7. WEQ Standard 011–1.6/WGQ Standard 0.3.15

42. This standard requires RTOs, ISOs, independent transmission operators, independent balancing authorities and/or regional reliability coordinators to establish operational communication procedures with the appropriate transportation service provider and/or power plant operator.

Comments

43. ISO–NE notes that it is unclear why this standard is applicable only to independent balancing authorities since it would seem that all balancing authorities would benefit from communications with all power plant operators. In addition, ISO–NE suggests that the language ''and/or'' be replaced with ''and'' to avoid any confusion.[21]

44. INGAA asks that the Commission clarify that it is the party responsible for managing the operations of each electric facility (*i.e.* RTO) to initiate the communication procedures required under this standard. INGAA states that allocation of responsibility is appropriate because the pipeline does not have firsthand information as to all the pertinent electric industry operators to which the power plants on the pipeline's system belong.

45. NiSource comments that a pipeline could have power plant operator shippers that are located in the service territories of many different entities (*i.e.*, RTOs, ISOs). In such a case, WEQ Standard 011–1.6/WGQ Standard 0.3.15 could require that the pipeline develop numerous sets of communications procedures depending on the wishes of the other entities. NiSource states that such a requirement would be overly burdensome and difficult to maintain, and requests that the Commission make clear that a pipeline preserves the ability to argue in a future dispute proceeding that it is not obligated to develop new communication procedures that are not currently supported by the pipeline's existing communication infrastructure.[22]

Commission Determination

46. As we explained above, the consensus of NAESB members sought to limit the communications requirement to independent balancing authorities, which helps to protect against disclosure of confidential information. If ISO–NE believes that this rationale should not apply to WEQ Standard 011–1.6/WGQ Standard 0.3.15, it can seek a change through NAESB which will allow all industry segments to participate in the determination.

47. We agree with INGAA that the RTOs, ISOs, independent transmission operators, independent balancing authorities and/or regional reliability coordinators are the parties responsible for initiating communication procedures, given that these parties should be the most knowledgeable regarding the pipelines used by power plants on their system. With respect to NiSource's comment we expect that the pipelines and RTOs, ISOs, and independent transmission operators will be able to work cooperatively to develop mutually agreeable, and efficient communication procedures. We are requiring in this rule that the parties file with us by November 1, 2007 to indicate that they have established the appropriate communication procedures. Should there be unresolved disputes at that time, the pipelines, RTOs, ISOs and independent transmission operators should advise the Commission what the unresolved issues are so the Commission can establish procedures to resolve those disputes, including the use of our dispute resolution and settlement judge procedures.[23]

[19] Florida Cities Comments at 4.

[20] FPL Energy Comments at 8.

[21] ISO–NE Comments at 9.

[22] NiSource Comments at 10.

[23] In a similar situation in the past (a requirement that pipelines enter into operational balancing agreements (OBAs) with interconnecting pipelines), rather than requiring pipelines to file their OBAs, the Commission required the pipelines to file a statement with the Commission certifying that they have complied with the requirement to enter into OBAs. *Standards for Business Practices of Interstate Natural Gas Pipelines*, 85 FERC ¶ 61,371 (1998). The Commission stood ready with Alternative Dispute Resolution and ultimately Commission action to resolve any disputes. *See Standards For Business Practices of Interstate Natural Gas Pipelines*, Order No. 587–G, 63 FR 20072 (Apr. 23, 1998), FERC Statutes and Regulations, Regulations Preambles July 1996– December 2000 ¶ 31,062 (Apr. 16, 1998).

8. Additional Issue

48. AGA states that, while it supports the incorporation of the NAESB standards, the existing operational rights of natural gas pipeline customers should not be changed as a result of efforts to increase communication and coordination between the gas and electric industries. To that end, AGA asks that the Commission ensure that NAESB standards WEQ–011–1.1/WGQ 0.3.11 and WEQ–011–1.3/WGQ 0.3.13 are enforced.[24]

49. We expect pipelines to comply with all the NAESB standards incorporated by reference in our regulations just as we expect them to comply with all of our other regulations that pertain to them.

B. Additional Issues Raised by NAESB

50. NAESB identified six issues for which it requested clarification of existing Commission policy or put forward potential areas for standards development that some industry participants believe might assist in resolving coordination problems between the gas and electric industries. The Commission provided clarification and guidance in the NOPR. Parties requested additional clarification on three issues, which we discuss below.

1. Use of Gas Indices for Pricing Capacity Release Transactions

51. In the Final Report filed with the Commission on February 24, 2006, NAESB requested clarification of Commission policy regarding the use of gas indices to price capacity release transactions, so that it could develop standards for such releases. In the NOPR, the Commission clarified that releasing shippers should be free to offer the same type of pricing arrangements that the pipeline offers and, therefore, releasing shippers are free to use gas price indices in pricing released capacity so long as the rate paid by the replacement shipper does not exceed the maximum rate in the pipeline's tariff.

Comments

52. INGAA states that the Commission clarified that, where pipelines offer discounts based on gas price indices, the provisions of the pipeline's tariff governing capacity releases should not prevent releasing shippers from offering the same type of pricing in such a transaction. INGAA contends, however, that not all pipelines have language within their tariffs regarding permissible discounts. Therefore, INGAA requests that the Commission clarify that a requirement to allow releasing shippers to release capacity using gas price indices only applies to pipelines with such language in their tariffs and that releases must be consistent with the pipeline tariff.[25] INGAA also requests that the Commission clarify that releasing shippers must specify all aspects of the release, including how to determine the best bid and the amount to bill under the release. Similarly, Carolina Gas requests clarification that releasing shippers desiring to use gas price indices to price capacity releases should only use published index prices that are readily available and agreeable for use by the pipeline.

53. Other commenters disagree. For example, NGSA argues the Commission should clarify releasing shippers should have the ability to release capacity using index-based pricing regardless of the pipeline's decision to exercise that authority. It contends that as long as the capacity release shipper is selling its capacity at, or below, the maximum tariff rate, it should be of no consequence how the pipeline prices its own primary capacity. NGSA asks the Commission to clarify the methodology pipelines should use to evaluate bids for primary and secondary market capacity made available at an index-based rate. Finally, NGSA requests that the Commission direct NAESB to establish the necessary data sets to allow for shippers to release capacity at rates which are based on gas price indices.

54. Several commenters, while in support of the Commission's proposed clarification, believe the Commission has limited the flexibility in pricing capacity releases by stating that such prices may not exceed the pipeline's maximum tariff rate.[26] These commenters argue for the removal of the price cap on capacity release transactions. FPL Energy asserts that lifting the price cap in the secondary market will result in more liquidity and competition for pipeline capacity as more shippers decide to purchase and manage their own capacity because they will have more opportunity to defray capacity costs and achieve fair market value for the capacity when it is not needed to generate power.[27]

Commission Determination

55. The Commission's regulations permit releasing shippers to use price indices or other formula rates on all pipelines, regardless of whether the pipeline has included a provision allowing the use of indices as part of its discounting provisions, so long as the prices are less than maximum rate in the pipeline's tariff. Section 284.8(b)[28] of the Commission's regulations states that ''firm shippers must be permitted to release their capacity, in whole or in part, *without restrictions on the terms or conditions for release*,'' and section 284.8(e)[29] mandates that such a release may not be ''over the maximum rate.'' All pipelines are permitted to use price indices in discount transactions either through provisions in their tariffs or by means of filing a non-conforming service agreement.[30] Providing releasing shippers with this flexibility is consistent with the ''original intent of the Commission's capacity release regulations by providing releasing shippers with the flexibility to structure capacity release transactions that best fit their business needs.'' [31]

56. INGAA has expressed concern about possible problems in implementing this requirement on pipelines that do not provide for indexed releases in their tariffs. Under the Commission regulations, the releasing shipper is responsible for clearly setting out the terms and conditions of the release and that would include the means for implementing the formula rate. This is also an issue on which NAESB can develop standards to ensure that such releases can be processed quickly and efficiently.

57. Some of the comments suggest that the price cap be lifted for capacity release transactions. This issue is already being addressed by the Commission in Docket Nos. RM06–21–000 and RM07–4–000, so it is not appropriate to address in this proceeding.

2. Pipelines' Ability To Permit Shippers To Choose Alternate Delivery Points

58. In its Final Report, NAESB requested clarification regarding the ability of pipelines to permit shippers to shift gas deliveries from a primary to a secondary delivery point when a pipeline constraint occurs upstream of both points. Such changes would make it easier for shippers to redirect gas supplies to generators during periods when capacity is scarce. NAESB

[24] AGA Comments at 2.

[25] INGAA Comments at 6.

[26] *E.g.*, Dominion, Florida Cities, and FPL Energy.

[27] FPL Energy Comments at 13.

[28] 18 CFR 284.8(b).

[29] 18 CFR 284.8(e).

[30] *Natural Gas Pipeline Co. of America*, 82 FERC ¶ 61,298, 62,179–80 (1998) (non-conforming provisions relating to discounts ''must be on file and approved by the Commission—either in Natural's pro forma service agreement or as nonconforming contracts'').

[31] *Standards for Business Practices of Interstate Natural Gas Pipelines*, Order No. 587–N, 67 FR 11906 (March 18, 2002), FERC Stats. & Regs., Regulations Preambles ¶ 31,125 at P 21 (Mar. 11, 2002).

provided, as an example, that a customer has 100 dekatherms scheduled to flow from a primary receipt point through the posted point of restriction to a primary delivery point. Under the same contract, the customer then requests a nomination change to move 50 of the 100 dekatherms to a secondary delivery point that is outside its transportation path but still through the posted point of restriction.

59. In the NOPR, the Commission discussed Order No. 637–B, which provided that pipelines must implement within-the-path scheduling under which a shipper seeking to use a secondary delivery point within its scheduling path has priority over another shipper seeking to use the same delivery point but that point is outside of its transportation path.[32] In addition, it stated that the scenario posed by NAESB was a slight variation of the within-the-path scheduling, and clarified that it would be reasonable to permit the reassignment as posited in most cases.

Comments

60. Salt River supports the ability of a gas shipper to make changes to its delivery point (from primary to alternate) once it has been confirmed through a constraint point without having it be treated as a new nomination. It argues that this ability better enables the electric industry to ensure that gas can move to the facilities that require it on an intra-day basis without having to be concerned about pro-rata curtailments or scheduled quantity cuts.[33]

61. Dominion agrees with the determination of shipper priority in the Commission's example, it is concerned that there may be other caveats beyond the one posited in which the Commission's specific ''clarification'' may not be appropriate. Florida Cities has no objection to the Commission's proposed clarification, but states that the Commission should not require all pipelines to require this accommodation without exception. It states that any prior arrangements concerning delivery point nominations are preserved. For example, Florida Cities contends that Florida Gas Transmission Company, LLC has a system in which secondary delivery point nominations are considered on a ''jump ball basis'', meaning the ability of a shipper to move its nomination from the primary delivery point to the secondary delivery point will be contingent upon whether secondary point nominations for that flow day create a need for the allocation of capacity instead of by virtue of pathing rights.[34]

62. INGAA requests that the Commission clarify in the Final Rule that its proposed clarification is not intended to revise its policies concerning capacity allocation or to broaden shippers' flexible point rights beyond those set out in Order Nos. 637.[35] El Paso further requests that the Commission state that the normal processes for new standards development apply to any new standards proposed relating to this issue.[36]

Commission Determination

63. The Commission is not modifying its requirement for within-the-path scheduling as adopted in Order No. 637. The example posited by NAESB appears consistent with the within-the-path scheduling concept and with pipeline proposals that have been accepted.[37] It would not be appropriate for the Commission here to try to provide generic clarification to cover all possible proposals by pipelines for according flexibility to shippers. These proposals will have to be judged on an individual basis. In addition, NAESB can consider through its consensus process possible standards for according increased receipt and delivery point flexibility.

3. Changes to the Intraday Nomination Gas Schedule

64. In its Final Report, NAESB raised the possibility of developing standards that would offer an additional intraday nomination cycle with rights for firm shippers to bump interruptible nominations. NAESB suggested that such a standard would provide more flexibility to shippers, including power generators, with firm transportation rights so that they can nominate for natural gas supporting their market clearing times. In the NOPR, the Commission explained that its bumping policy requires that the last intra-day nomination opportunity would be one in which firm nominations do not bump interruptible nominations, but that NAESB could consider whether to add another intra-day nomination opportunity with bumping rights prior to the final non-bumping opportunity, or to develop additional changes to its nomination timeline to better coordinate with electric scheduling.

Comments

65. Various commenters support the development of a standard to modify the timing of the existing nomination schedule or add an additional nomination period.[38] Dominion states that having an additional cycle(s) is desirable, as it would allow firm shippers to ensure their gas flows and thereby help repair the disconnect between the gas and electric scheduling timelines. Duke agrees, and requests that the NAESB WEQ be allowed to determine whether any additional nomination cycle will produce the desired effects of greater shipper flexibility and security.

66. FPL Energy and Florida Cities do not object to the addition of a new intraday nomination cycle so long as any new nomination opportunity does not carry bumping rights in the event that it becomes the next to last nomination opportunity. Florida Cities states that if such rights were afforded, interruptible shippers may be forced into the market late with little chance of finding a replacement market. In addition, FPL Energy is concerned that having more opportunities to bump interruptible service could cause supply sources that cannot shut down quickly to limit their sales to firm shippers, thus harming those shippers wishing to utilize interruptible service. On the other hand, while TVA agrees with the addition of a new intraday nomination cycle, it requests that the Commission eliminate the ''no-bump'' rule entirely, as it puts interruptible transportation on equal footing with the highest priority firm transportation, *i.e.*, a shipper paying the lowest rate on the system can displace those shippers that pay one of the highest rates on the system.

67. Other participants oppose the introduction of an additional nomination cycle.[39] Carolina Gas states that having another intra-day nomination opportunity would create unnecessary administrative complexities and would require significant modifications to Carolina Gas' Internet Web site. El Paso states that transportation service providers must already complete complex allocation and confirmation processes within a limited timeframe. Among other objectives, these processes are designed to ensure that the nominated gas supply is available and the

[32] *Regulation of Short-Term Natural Gas Transportation Services*, 92 FERC ¶ 61,062 at 61,168–70 (2000).

[33] Salt River Comments at 3.

[34] Florida Cities Comments at 8.

[35] INGAA Comments at 8.

[36] El Paso Comments at 4.

[37] *Algonquin Gas Transmission Co.*, Director Letter Order, Docket No. RP06–69–000 (November 22, 2005); *Texas Eastern Transmission, LP,* Director Letter Order, Docket No. RP06–70–000 (November 22, 2005).

[38] *E.g.*, Dominion, Duke, Florida Cities, FPL Energy, Salt River, TVA.

[39] *E.g.*, Carolina Gas, El Paso, EPSA, INGAA.

nominated market is ready to receive the gas.

68. INGAA asserts that neither altering the existing scheduling timeline nor adding an additional intra-day nomination cycle with bumping rights guarantees that a power generator will be able to nominate primary firm transportation capacity when the generator most needs that capacity, and states that any reliability issue concerning gas supply to electric generators should be addressed through individual pipeline proceedings. EPSA states that it is unclear whether the addition of another nomination opportunity with or without bumping rights would produce any significant improvement in the reliable performance of the system.

Commission Determination

69. As we stated in the NOPR, the Commission has recognized the interest of interruptible shippers in achieving business certainty by making the last intra-day nomination opportunity one in which firm nominations do not bump interruptible nominations.[40] However, within the confines of current Commission policy, NAESB should actively consider whether changes to existing intra-day schedules would benefit all shippers, and provide for better coordination between gas and electric scheduling. In addition, the NAESB nomination timeline establishes only the minimum requirement to which pipelines must adhere. We fully expect that individual pipelines supporting gas-fired generators will be considering the addition of other intra-day nomination opportunities that would be of benefit to their shippers.

III. Implementation Dates and Procedures

70. Pipelines and public utilities are required to implement the standards we are incorporating by reference in this Final Rule by November 1, 2007. In addition, pipelines and public utilities are required to file a statement by November 1, 2007 as to whether they have established the required procedures in WEQ Standard 011–1.2/WGQ Standard 0.3.12 and WEQ Standard 011–1.6/WGQ Standard 0.3.15. To reduce the burden on filers, we are not requiring pipelines and public utilities to make filings to include these standards in their tariffs at this time. These standards will be included in tariffs when the pipelines and public utilities file to incorporate in their tariffs the next revised version of the NAESB standards.

IV. Notice of Use of Voluntary Consensus Standards

71. In section 12(d) of the National Technology Transfer and Advancement Act of 1995, Congress affirmatively requires federal agencies to use technical standards developed by voluntary consensus standards organizations, like NAESB, as the means to carry out policy objectives or activities unless use of such standards would be inconsistent with applicable law or otherwise impractical.[41] NAESB approved the standards under its consensus procedures. Office of Management and Budget Circular A–119 (§ 11) (February 10, 1998) provides that federal agencies should publish a request for comment in a NOPR when the agency is seeking to issue or revise a regulation proposing to adopt a voluntary consensus standard or a government-unique standard. On October 25, 2006, the Commission issued a NOPR that proposed to incorporate by reference NAESB's Gas/Electric Coordination Standards. The Commission took comments on the NOPR into account in fashioning this Final Rule.

V. Information Collection Statement

72. The Office of Management and Budget's (OMB) regulations in 5 CFR 1320.11 (2005) 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.

73. The final rule upgrades the Commission's current business practice and communication standards to include standardized communication protocols between interstate pipelines and power plant operators and transmission owners and operators. The implementation of these standards and regulations is necessary to improve coordination between the gas and electric industries, to improve communications about scheduling of gas-fired generators and to improve the reliability in both industries. The following burden estimates include the costs to implement the WEQ's and WGQ's definitions and business practice standards providing for coordination and which will establish communication protocols between interstate natural gas pipelines and power plant operators and transmission owners and the various electric industry operators. The implementation of these data requirements will help the Commission carry out its responsibilities under the Federal Power Act and Natural Gas Act of promoting the efficiency and reliability of the electric and gas industries' operations. The Commission's Office of Energy Markets and Reliability will use the data for general industry oversight.

74. The Commission sought comments to comply with these requirements. Comments were received from sixteen entities. No comments addressed the reporting burden imposed by these requirements and therefore the Commission will use the same estimates in the final rule. The substantive issues raised by the commenters are addressed in this preamble.

[40] NOPR at P 23.

[41] Pub L. No. 104–113, § 12(d), 110 Stat. 775 (1996), 15 U.S.C. § 272 note (1997).

Data collection	Number of respondents	Number of responses per respondent	Hours per response	Total number of hours
FERC–549C	93	1	20	1,860
FERC–717	220	1	33	7,260
Totals				9,120

Total Annual Hours for Collection (Reporting and Recordkeeping, (if appropriate)) = 9,120.

Information Collection Costs: The Commission sought comments on the costs to comply with these requirements but no comments were received addressing these cost estimates.

The Commission will therefore use the same estimates in the final rule. It has projected the average annualized cost for all respondents to be the following:[42]

	FERC–549C	FERC–717
Annualized Capital/Startup Costs	$279,000	$1,089,000
Annualized Costs (Operations & Maintenance)	N/A	N/A
Total Annualized Costs	279,000	1,089,000

75. OMB regulations[43] require OMB to approve certain information collection requirements imposed by agency rule. The Commission is submitting this Final Rule to OMB for review and approval of the information collections. These information collections are mandatory requirements.

Title: Standards for Business Practices of Interstate Natural Gas Pipelines (FERC–549C) Standards for Business Practices and Communication Protocols for Public Utilities (FERC–717) (*formerly* Open Access Same Time Information System).

Action: Proposed collections.

OMB Control No.: 1902–0174 and 1902–0173.

Respondents: Business or other for profit, (Public Utilities and Natural Gas Pipelines (Not applicable to small business.)).

Frequency of Responses: One-time implementation (business procedures, capital/start-up).

76. *Necessity of Information:* The Commission's regulations adopted in this rule are necessary to further the process begun in Order No. 587 of creating a more efficient and integrated pipeline grid by standardizing the business practices and electronic communication of interstate pipelines and expanded in Order No. 676 to create a more efficient and integrated electric transmission grid by standardizing the business practices and electronic communication of public utilities. The Commission has reviewed the requirements pertaining to business practices and electronic communication of public utilities and natural gas pipelines and made a preliminary determination that the proposed revisions are necessary to establish more efficient coordination between the gas and electric industries. Requiring such information ensures both a common means of communication and common business practices to improve communications for participants engaged in the sale of electric energy at wholesale and the transportation of natural gas.

77. 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 Deputy Chief Information Officer, ED–30, (202) 502–8415, or *michael.miller@ferc.gov*] or 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) 395–4650, or fax: (202) 395–7285.

VI. Environmental Analysis

78. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[44] The Commission has categorically excluded certain actions from these requirements as not having a significant effect on the human environment.[45] The actions adopted here fall within categorical exclusions in the Commission's regulations for rules that are clarifying, corrective, or procedural, for information gathering analysis, and dissemination, and for sales, exchange, and transportation of natural gas and electric power that requires no construction of facilities. Therefore, an environmental assessment is unnecessary and has not been prepared in this Final Rule.

VII. Regulatory Flexibility Act

79. The Regulatory Flexibility Act of 1980 (RFA)[46] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The regulations adopted here impose requirements only on interstate pipelines and public utilities, the majority of which are not small businesses, and would not have a significant economic impact. These requirements are, in fact, designed to benefit all customers, including small businesses. Accordingly, pursuant to section 605(b) of the RFA, the Commission hereby certifies that the regulations adopted herein will not have a significant adverse impact on a substantial number of small entities.

VIII. Document Availability

80. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all

[42] The total annualized cost for the two information collections is $ 1,368,000. This number is reached by multiplying the total hours to prepare a response (hours) by an hourly wage estimate of $150 (a composite estimate that includes legal, technical and support staff rates). $1,368,000 = $150 × 9,120.

[43] 5 CFR 1320.11.

[44] *Regulations Implementing the National Environmental Policy Act,* Order No. 486, 52 FR 47897 (Dec. 17, 1987), FERC Stats. & Regs., Regulations Preambles 1986–1990 ¶ 30,783 (1987).

[45] 18 CFR 380.4 (2006).

[46] 5 U.S.C. 601–612.

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.

81. From FERC's Home Page on the Internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field. User assistance is available for eLibrary and the FERC's Web site during normal business hours from FERC Online Support at (202) 502–6652 (toll-free at 1–866–208–3676) or e-mail at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. E-Mail the Public Reference Room at *public.refererenceroom@ferc.gov*.

IX. Effective Date and Congressional Notification

82. These regulations are effective August 15, 2007. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 351 of the Small Business Regulatory Enforcement Fairness Act of 1996.

List of Subjects in 18 CFR Parts 38 and 284

Continental shelf, Natural gas, Incorporation by reference, Reporting and recordkeeping requirements.

By the Commission.

Kimberly D. Bose,

Secretary.

■ In consideration of the foregoing, the Commission amends parts 38 and 284 of Chapter I, Title 18, *Code of Federal Regulations,* as follows.

PART 38—BUSINESS PRACTICE STANDARDS AND COMMUNICATION PROTOCOLS FOR PUBLIC UTILITIES

■ 1. The authority citation for part 38 continues to read as follows:

Authority: 16 U.S.C. 791–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

■ 2. Section 38.1 is revised to read as follows:

§ 38.1 Applicability.

This part applies to any public utility that owns, operates, or controls facilities used for the transmission of electric energy in interstate commerce or for the sale of electric energy at wholesale in interstate commerce and to any non-public utility that seeks voluntary compliance with jurisdictional transmission tariff reciprocity conditions.

■ 3. Section 38.2 is amended by adding new paragraph (a)(8) to read as follows:

§ 38.2 Incorporation by reference of North American Energy Standards Board Wholesale Electric Quadrant standards.

(a) * * *

(8) Gas/Electric Coordination Standards (WEQ–011, Version 1, as adopted in Recommendation R04021 July 8, 2005).

* * * * *

PART 284—CERTAIN SALES AND TRANSPORTATION OF NATURAL GAS UNDER THE NATURAL GAS POLICY ACT OF 1978 AND RELATED AUTHORITIES

■ 4. The authority citation for part 284 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352; 43 U.S.C. 1331–1356.

■ 5. In § 284.12, paragraph (a)(1)(i) is revised to read as follows:

§ 284.12 Standards for pipeline business operations and communications.

(a) * * *

(1) * * *

(i) Additional Standards (General Standards and Creditworthiness Standards) (Version 1.7, December 31, 2003) and Additional Standards (Gas/Electric Operational Communications) (Version 1.8, September 30, 2006, with minor corrections applied December 31, 2006).

* * * * *

[FR Doc. E7–13591 Filed 7–13–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9339]

RIN 1545–BG44

Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final and temporary regulations that provide guidance to state and local governments that issue qualified zone academy bonds and to banks, insurance companies, and other taxpayers that hold those bonds on the program requirements for qualified zone academy bonds. The temporary regulations implement the amendments to section 1397E of the Internal Revenue Code (Code) (discussed in this preamble) and provide guidance on the maximum term, permissible use of proceeds, and remedial actions for qualified zone academy bonds. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**. The portions of this rule that are final regulations provide necessary cross-references to the temporary regulations.

DATES: *Effective Date:* These regulations are effective on September 14, 2007.

Applicability Date: For dates of applicability, see § 1.1397E–1(m) of these regulations.

FOR FURTHER INFORMATION CONTACT: Timothy L. Jones or Zoran Stojanovic, (202) 622–3980 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in these regulations has been reviewed, and pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545–1908. Responses to this collection of information are required to obtain or retain a benefit.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble to the cross-referencing notice of proposed rulemaking published in the Proposed Rules section of this issue of the **Federal Register**.

Books and records relating to a collection of information must be

retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

Section 1397E(a) of the Code provides that an eligible taxpayer (within the meaning of section 1397E(d)(6)) that holds a qualified zone academy bond (''QZAB'' or ''QZABs'') on a credit allowance date is allowed a credit against Federal income tax for the taxable year that includes the credit allowance date. In general, a QZAB is a bond issued by a state or local government to finance certain eligible public school purposes under section 1397E(d). Section 1397E(b) provides that the amount of the QZAB credit equals the product of the credit rate and the face amount of the bond held by the taxpayer on the credit allowance date. Under section 1397E(b)(2), the credit rate is determined by the Treasury Department and equals the percentage that the Department estimates generally will permit the issuance of QZABs without discount and without interest cost to the issuer. Section 1397E(i)(1) defines ''credit allowance date'' as the last day of the one-year period beginning on the issue date of the issue and the last day of each successive one-year period thereafter. Under section 1397E(d)(3), the maximum term of a QZAB is determined by the Treasury Department and equals the term that the Treasury Department estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond.

Section 1397E(j) provides that the amount of the QZAB credit allowed to the taxpayer is included in the taxpayer's gross income.

Section 1397E(e) imposes a national limitation on the amount of QZABs that may be issued for each calendar year. The limitation is allocated by the Treasury Department among the States on the basis of their respective populations of individuals below the poverty line.

Section 1397E was amended by section 107 of the Tax Relief and Health Care Act of 2006, Public Law 109–432, 120 Stat. 2922 (2006) (the ''2006 Act''), by adding certain requirements for a bond to be a QZAB. In general, the 2006 Act added a new five-year spending period requirement, arbitrage investment restrictions, and information reporting requirements. Specifically, the 2006 Act added new section 1397E(f), which generally imposes spending period restrictions under which an issuer of QZABs must reasonably expect, as of the issue date, that: (1) At least 95 percent of the proceeds from the sale of the issue are to be spent for one or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the issue date of the QZAB; (2) a binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the six-month period beginning on the issue date of the QZAB; and (3) such purposes will be completed with due diligence and the proceeds from the sale of the issue will be spent with due diligence. New Section 1397E(f)(2) added by the 2006 Act provides authority to the Secretary of the Treasury to extend the five-year spending period. To the extent that less than 95 percent of the proceeds of the issue are spent within the five-year spending period (plus any extension granted by the Secretary of the Treasury), the 2006 Act requires the issuer to redeem the nonqualified bonds within 90 days after the end of such period.

In addition, the 2006 Act added new section 1397E(g), which generally requires that an issue of QZABs must satisfy the arbitrage investment restrictions of section 148 with respect to the proceeds of the issue.

Finally, the 2006 Act added new section 1397E(h), which generally requires that issuers of QZABs submit information reporting returns to the IRS similar to the information reporting returns required to be submitted to the IRS under section 149(e) for tax-exempt state or local bonds.

Temporary regulations (TD 8755) interpreting section 1397E were published on January 7, 1998 (63 FR 671), and amended on July 1, 1999 (TD 8826; 64 FR 35573). Final regulations under section 1397E (TD 8903) were published on September 26, 2000 (65 FR 57732) (the ''Final Regulations''). On March 26, 2004, a notice of proposed rulemaking (REG–121475–03) was published in the **Federal Register** (69 FR 15747) (the ''2004 Proposed Regulations''). The 2004 Proposed Regulations proposed to amend the existing Final Regulations by providing guidance on the maximum term, permissible use of proceeds, and remedial actions for QZABs. A public hearing was scheduled for July 21, 2004. The public hearing was cancelled because no requests to speak were received. Written comments on the 2004 Proposed Regulations were received. After consideration of the written comments, and in light of the statutory changes made by the 2006 Act, the need for regulatory guidance on those statutory changes, and the close connection between that needed guidance and the guidance in the 2004 Proposed Regulations, the IRS and the Treasury Department have determined to issue coordinated guidance in these temporary regulations (the ''Temporary Regulations''), with an opportunity for public comment in the corresponding proposed regulations (the ''Proposed Regulations''). Set forth in this preamble is an explanation of certain provisions of the Temporary Regulations.

Explanation of Provisions

I. Certain Definitions

A. In General

The Temporary Regulations employ certain definitions used in the tax-exempt bond area. Thus, the Temporary Regulations employ certain definitions used for general tax-exempt bond purposes in § 1.150–1 and certain definitions used for purposes of the arbitrage investment restrictions on tax-exempt bonds in § 1.148–1(b).

B. Definitions of Various Types of Proceeds in General

In general, § 1.148–1(b) defines ''sale proceeds'' as any amounts actually or constructively received from the sale of an issue, including amounts used to pay underwriters' discount or compensation. In addition, § 1.148–1(b) defines ''investment proceeds'' to mean any amounts actually or constructively received from investing proceeds of an issue. Further, § 1.148–1(c) defines ''replacement proceeds'' to include certain amounts with a reasonable nexus to a bond issue, such as sinking funds reasonably expected to be used to pay debt service on a bond issue and pledged funds pledged to pay debt service on a bond issue with a reasonable assurance that the funds will be available to pay such debt service.

C. Proceeds for Purposes of the Use and Spending Requirements

In general, the Temporary Regulations provide that, for purposes of the provisions of QZAB provisions regarding the use and expenditure of proceeds for qualified purposes within prescribed periods, ''proceeds'' means sale proceeds, as defined in § 1.148–1(b), plus investment proceeds, as defined in § 1.148–1(b). Thus, under the Temporary Regulations, the requirement in section 1397E(d)(1)(A) to use at least 95 percent of the proceeds of an issue for a qualified purpose with respect to a qualified zone academy applies by taking into account both the sale

proceeds of the issue and any investment proceeds received from investing those sale proceeds. Similarly, under the Temporary Regulations, the requirement in section 1397E(f) to spend at least 95 percent of the proceeds from the sale of an issue on qualified purposes within a five-year period and the associated requirements in section 1397E(f) apply to both sale proceeds of an issue and investment proceeds derived from investing sale proceeds.

Some commentators suggested that, for purposes of the 95-percent test, the definition of ''proceeds'' should be limited to sale proceeds and should exclude amounts received from investing sale proceeds. These commentators suggested that, when sizing a bond issue to comply with the 95-percent test, it could be difficult for an issuer to include investment earnings because interest rates may be volatile and the timing of expenditures may be uncertain. The IRS and the Treasury Department have considered this comment and have concluded that the definition of proceeds in the 2004 Proposed Regulations that applies for purposes of the 95-percent test is appropriate to ensure the use and expenditures of proceeds of QZABs for one or more qualified purposes under section 1397E(d)(5) and (f). Thus, the Temporary Regulations retain this provision. This approach is consistent with the view that, for purposes of certain similar provisions on qualified private activity bonds under section 141, which are based on use of 95% of the net proceeds, as defined in section 150(a)(3), for qualified purposes, net proceeds properly include both sale proceeds and investment proceeds pending expenditures for ultimate qualified governmental purposes, with certain reductions inapplicable to QZABs.

D. Proceeds for Purposes of Private Business Contribution

Section 1397E(d)(1)(C)(ii) provides that a bond is a QZAB only if, among other requirements, the issuer certifies that it has written assurances that the private business contribution requirement of section 1397E(d)(2) will be met with respect to the qualified zone academy. Section 1397E(d)(2)(A) provides that the private business contribution requirement is met if the eligible local education agency that established the qualified zone academy has written commitments from private entities to make qualified contributions (as defined in section 1397E(d)(2)(B)) having a present value (as of the issue date of the issue) of not less than ten percent of the proceeds of the issue. The 2004 Proposed Regulations provide that, for purposes of the private business contribution requirement of section 1397E(d)(2), proceeds means sale proceeds, as defined in § 1.148–1(b), without regard to any investment proceeds received or expected to be received from investing those sale proceeds. Commentators supported this narrower definition of ''proceeds'' in the 2004 Proposed Regulations for purposes of the private business contribution requirement. The Temporary Regulations retain this provision.

II. Maximum Term

Section 1397E(d)(3) provides that the Secretary of the Treasury Department shall determine, during each calendar month, the maximum term for QZABs issued during the following calendar month. Section 1397E(d)(3) states that the maximum term shall be the term that the Secretary estimates will result in the present value of the obligation to repay the principal on the bond being equal to 50 percent of the face amount of the bond. Section 1.1397E–1(d) of the existing Final Regulations provides that the maximum term for a QZAB is determined under section 1397E(d)(3) by using a discount rate equal to 110 percent of the long-term adjusted applicable Federal rate (AFR), compounded semi-annually, for the month in which the bond is issued. The IRS publishes the long-term adjusted AFR each month in a revenue ruling. See § 601.601(d)(2)(ii)(*b*).

Section 1397E(b)(2) provides that the Secretary shall determine, during each calendar month, a credit rate for QZABs issued during the following calendar month. Section 1.1397E–1(b) provides that the Secretary shall determine monthly (or more often as deemed necessary by the Secretary) the credit rate the Secretary estimates generally will permit the issuance of a QZAB without discount and without interest cost to the issuer. Notice 99–35 (1999–2 CB 26), see § 601.601(d)(2)(ii)(*b*) (''Notice 99–35''), indicates that, until further notice, the credit rate for a QZAB will be published daily by the Bureau of Public Debt on its Internet site for State and Local Government Series securities (*https://www.treasurydirect.gov*). Notice 99–35 also provides that the credit rate shall be applied to a QZAB on the first day on which there is a binding contract in writing for the sale or exchange of the bond. Notice 99–35 states that the credit rate will be determined by the Treasury Department based on its estimate of the yield on outstanding AA rated corporate bonds of a similar maturity for the business day immediately prior to the date on which there is a binding contract in writing for the sale or exchange of the bond.

Prior to the issuance of the 2004 Proposed Regulations, questions were raised regarding the maximum term of a QZAB that is sold in one month and issued in another month. Section 1.1397E–1(d) of the existing Final Regulations provides that the maximum term is determined based on the month in which the bond is issued. However, under Notice 99–35, the credit rate for a QZAB is determined based on the first day on which there is a binding contract in writing for the sale or exchange of the bond. The credit rate and maximum term should be determined on the same day because the credit rate for a bond depends on its maximum term. Accordingly, the 2004 Proposed Regulations would amend § 1.1397E–1(d) to provide that the maximum term for a QZAB is determined based on the first day on which there is a binding contract in writing for the sale or exchange of the bond.

Commentators supported the maximum term provisions in the 2004 Proposed Regulations. The Temporary Regulations retain these provisions.

At the present time, the Treasury Department is continuing its current practice of publishing the credit rate and maximum term for QZABs on the Bureau of Public Debt's Internet site for State and Local Government Series securities (*http://www.publicdebt.treas.gov*).

III. Use of Proceeds and Remedial Actions

A. In General

Section 1397E(d)(1) provides that a bond issued as part of an issue is a QZAB only if, among other requirements, at least 95 percent of the proceeds of the issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency (as defined in section 1397E(d)(4)(B)) and the issue meets the requirements of section 1397E(f) (relating to spending periods), section 1397E(g) (relating to arbitrage), and section 1397E(h) (relating to information reporting requirements). Section 1397E(d)(5) defines ''qualified purposes'' for any qualified zone academy to include: (i) Rehabilitating or repairing the public school facility in which such academy is established, (ii) providing equipment for use at such academy, (iii) developing course materials for education to be provided at such academy, and (iv) training teachers and other school personnel in such academy. Section 1397E(d)(4)(A)

defines ''qualified zone academy'' as any public school (or academic program within a public school) that is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level if: (1) The public school or program is designed in cooperation with business in accordance with section 1397E(d)(4)(A)(i); (2) students in the public school or program will be subject to the same academic standards and assessments as other students educated by the eligible local education agency; (3) the comprehensive education plan of the public school or program is approved by the eligible local education agency; and (4) the public school is located in an empowerment zone or enterprise community (as defined in section 1393), or there is a reasonable expectation (as of the issue date of the bonds) that at least 35 percent of the students attending the school or participating in the program will be eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act.

B. Compliance With 95-Percent Test

1. In General

The 2004 Proposed Regulations provide guidance on compliance with the 95-percent test in section 1397E(d)(1)(A). Specifically, the 2004 Proposed Regulations provide that, in general, an issue must satisfy two requirements to comply with section 1397E(d)(1)(A). First, the issuer must reasonably expect, as of the issue date of the issue, to use at least 95 percent of the proceeds of the issue for a qualified purpose with respect to a qualified zone academy for the entire term of the issue (without regard to any redemption provision). Second, except as otherwise provided in the remedial action provisions of the 2004 Proposed Regulations, at least 95 percent of the proceeds of the issue must actually be used for a qualified purpose with respect to a qualified zone academy for the entire term of the issue (without regard to any redemption provision). For these purposes, under the 2004 Proposed Regulations, any unspent proceeds are treated as used for a qualified purpose with respect to a qualified zone academy during any period that the issuer reasonably expects that those proceeds will be spent with due diligence for a qualified purpose with respect to a qualified zone academy.

Some commentators suggested a modification of the requirement in the 2004 Proposed Regulations that at least 95 percent of the proceeds of an issue both be reasonably expected to be used and actually be used for a qualified purpose for the entire term of the issue. Specifically, these commentators requested that the requirement be altered to conform to the tax-exempt bond provisions of § 1.141–2(d), which look to a similar standard based on reasonable expectations and deliberate actions within an issuer's control, with certain exceptions for involuntary conversions and actions in response to directives from the Federal government. These commentators noted that use of the standards under section 141 would be appropriate because the statutory language of sections 141 and 1397E both use the phrase ''are to be used.'' In substance, the standards for interpreting this phrase under the 2004 Proposed Regulations and under section 141 both incorporate reasonable expectations and actual use, with certain special exceptions to actual use in the case of the standard under section 141. The IRS and the Treasury Department believe, however, that compliance standards for the actual use of proceeds appropriately may take into account the particular governmental program involved.

The Temporary Regulations do not adopt the suggestion to conform the 95-percent test for QZABs to the deliberate action provisions of § 1.141–2(d). The Temporary Regulations retain the proposed standard based on reasonable expectations and actual use. The actual use test is set forth under section 1397E(f)(3), as introduced by the 2006 Act, and is appropriate for the circumstances involved with QZABs. In addition, the control-based exceptions to actual use under the deliberate action standard under section 141 raise certain administrability concerns in the context of QZABs. For example, it may be particularly difficult to determine if a loss of qualified zone academy status is within an issuer's control.

The Temporary Regulations provide guidance on the spending period requirements introduced by the 2006 Act in section 1397E(f). Specifically, the Temporary Regulations provide that an issuer must both reasonably expect to spend and actually spend at least 95 percent of the proceeds of an issue of QZABs within the five-year period beginning on the issue date of the issue of QZABs (or be subject to the additional requirement to redeem bonds from unspent proceeds at the end of that five-year period). The Temporary Regulations clarify that the various requirements relating to ''reasonable expectations'' for the use of proceeds of QZABs and actual actions to proceed with ''due diligence'' to spend such proceeds on qualified purposes are based on objective reasonableness standards, as used in the definition of ''reasonable expectations or reasonableness'' in § 1.148–1(b) of the arbitrage regulations.

2. Proceeds Spent for Rehabilitation, Repair or Equipment

Section 1397E(d)(5)(A) and (B) provides that the term ''qualified purpose'' with respect to any qualified zone academy includes rehabilitating or repairing the public school facility in which such academy is established, and providing equipment for use at such academy. The 2004 Proposed Regulations specify that, if proceeds of an issue are spent for a purpose described in section 1397E(d)(5)(A) or (B) with respect to a qualified zone academy, then those proceeds are treated as used for a qualified purpose with respect to the academy during any period after such expenditure that (1) the property financed with those proceeds is used for the purposes of the academy and (2) the academy maintains its status as a qualified zone academy. For this purpose, the retirement from service of financed property due to normal wear or obsolescence does not cause the property not to be used for a qualified purpose with respect to a qualified zone academy.

The Temporary Regulations provide guidance on the applicable standard for determining whether proceeds of QZABs are used for a qualified purpose of ''rehabiliting'' a public school facility under section 1397E(d)(5)(A), based on a known existing standard used for purposes of the rehabilitation tax credit under section 47. In particular, in determining whether proceeds of QZABs are used for a qualified purpose of ''rehabilitating'' a public school facility under section 1397E(d)(5)(A), rules similar to those used for purposes of the rehabilitation tax credit in section 47(c) (other than sections 47(c)(1)(B) and 47(c)(2)(B)(v)) shall apply. Set forth in this preamble is a general description of certain aspects of this rehabilitation expenditure standard. In general, the rehabilitation standard under section 47 requires a substantial rehabilitation involving a building that already has been placed in service and a rehabilitation process that preserves specified portions of the existing walls of the building. Specifically, at least 50 percent of the existing external walls of the rehabilitated building must be retained as external walls, at least 75 percent of the existing external walls must be retained as internal or external walls, and at least 75 percent of the

existing internal structural framework must be retained. Under this rehabilitation standard, eligible rehabilitation expenditures include some expenditures for reconstruction, subject, however, to the foregoing restrictions on retention of certain percentages of the existing walls. In addition, however, under this rehabilitation standard, eligible rehabilitation expenditures do not include expenditures to enlarge existing buildings or expenditures to acquire existing buildings. In adopting the rehabilitation standard used in section 47 for purpose of section 1397E, the IRS and the Treasury Department declined to adopt one public comment which suggested that rehabilitation should include complete reconstruction of a building. Here, the IRS and the Treasury Department determined that such a broad interpretation of rehabilitation effectively to include new construction would be beyond Congressional intent.

3. Proceeds Spent to Develop Course Materials or Train Teachers

Section 1397E(d)(5)(C) and (D) provides that the term ''qualified purpose'' with respect to any qualified zone academy includes developing course materials for education to be provided at such academy, and training teachers and other school personnel in such academy. The 2004 Proposed Regulations provide that, if proceeds of an issue are spent for a purpose described in section 1397E(d)(5)(C) or (D) with respect to a qualified zone academy, then those proceeds are treated as used for a qualified purpose with respect to the academy during any period after such expenditure. Commentators supported this provision of the 2004 Proposed Regulations. The Temporary Regulations retain this provision.

4. Special Rule for Determining Status as Qualified Zone Academy

Section 1397E(d)(4)(A)(iv) provides that a public school (or academic program within a public school) is a qualified zone academy only if, among other requirements, the public school is located in an empowerment zone or enterprise community, or there is a reasonable expectation (as of the issue date of the issue) that at least 35 percent of the students attending the school or participating in the program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act.

For purposes of determining whether an issue complies with section 1397E(d)(4)(A)(iv), the 2004 Proposed Regulations provide that a public school is treated as located in an empowerment zone or enterprise community for the entire term of the issue if the public school is located in an empowerment zone or enterprise community on the issue date of the issue. Commentators agreed with this provision of the 2004 Proposed Regulations relating to empowerment zones and enterprise communities. The Temporary Regulations retain this provision.

Commentators also requested clarification of the relevant time period for determining compliance with the 35-percent free or reduced-cost school lunch program test. The Temporary Regulations provide that the test looks to whether there is a reasonable expectation (as of the issue date of the bonds) that at least 35 percent of the students attending the school or participating in the program (as the case may be) will be eligible for free or reduced-cost lunches during the one-year period following the date the bonds are issued.

C. Remedial Actions

1. In General

Prior to the issuance of the 2004 Proposed Regulations, comments were received requesting guidance specifying remedial actions that may be taken to cure a violation of the 95-percent test in section 1397E(d)(1)(A). The 2004 Proposed Regulations specify two remedial actions that may be taken in certain circumstances if less than 95 percent of the proceeds of an issue actually are used for a qualified purpose with respect to a qualified zone academy. These remedial actions are available only if the issuer reasonably expected on the issue date of the bonds that: (1) The issue would meet the requirements of section 1397E(f)(1)(A), (B), and (C); and (2) at least 95 percent of the proceeds of the issue would be used for a qualified purpose with respect to a qualified zone academy for the entire term of the issue (without regard to any redemption provision).

As discussed in this preamble, the two remedial actions specified in the 2004 Proposed Regulations are (1) redemption or defeasance of the nonqualified bonds, and (2) alternative use of the disposition proceeds. If the applicable requirements are met, the redemption or defeasance remedial action is available to cure any failure to satisfy the 95-percent test that was not reasonably expected as of the issue date. The alternative use of disposition proceeds remedial action applies only to certain dispositions of financed property for cash.

Commentators recommended that the 2004 Proposed Regulations be amended to provide additional flexibility for issuers if the failure to properly use proceeds is based on a loss of status of the public school or academic program as a qualified zone academy. Consistent with the 2006 Act, the Treasury Department and the IRS have concluded that the remedial actions of redemption and defeasance in the 2004 Proposed Regulations will adequately address situations where there has been a disqualifying change in the status of an academy. The Temporary Regulations retain these two remedial actions with certain modifications relating to the amendments to section 1397E introduced by the 2006 Act.

2. Redemption or Defeasance of Nonqualified Bonds

Under the 2004 Proposed Regulations, a redemption or defeasance remedial action is taken if: (1) All of the nonqualified bonds of the issue (determined by applying the principles of § 1.142–2(e)) are redeemed within 90 days after the date on which the failure to properly use proceeds occurs; (2) if any nonqualified bonds of the issue are not redeemed within 90 days after the date on which the failure to properly use proceeds occurs (the unredeemed nonqualified bonds), a defeasance escrow is established for the unredeemed nonqualified bonds within 90 days after the date on which the failure to properly use proceeds occurs; or (3) if the failure to properly use proceeds is a disposition of financed property described in section 1397E(d)(5)(A) or (B) and the consideration for the disposition is exclusively cash, all of the disposition proceeds (as defined in § 1.141–12(c)(1)) are used within 90 days after the date of the disposition to redeem, or establish a defeasance escrow for, a pro rata portion of the nonqualified bonds of the issue.

The Temporary Regulations retain the remedial actions described in this preamble but, in accordance with new section 1397E(f)(3), the Temporary Regulations limit defeasance of nonqualified bonds to bonds the proceeds of which have actually been spent for a qualified purpose with respect to a qualified academy within the 5-year period beginning on the issue date of the bonds. For proceeds that have not been spent within the 5-year period, the only remedial action available to the issuer is redemption of nonqualified bonds under the principles of section 142.

3. Failure to Properly Use Proceeds

For unspent proceeds, the 2004 Proposed Regulations provide that a failure to properly use proceeds occurs on the earlier of: (1) The first date on which the public school (or academic program within the public school) fails to constitute a qualified zone academy; or (2) the first date on which the issuer fails to have a reasonable expectation to proceed with due diligence to spend at least 95 percent of the proceeds of the issue for a qualified purpose with respect to a qualified zone academy.

The Temporary Regulations retain the provisions concerning the failure to properly use unspent proceeds but implement section 1397E(f)(1)(A) by adding a provision that improper use also occurs if 95 percent of the bond proceeds have not been properly spent within the 5-year period beginning on the day the bonds are issued.

For proceeds that have been spent for rehabilitation, repair or equipment described in section 1397E(d)(5)(A) or (B) with respect to a qualified zone academy, the 2004 Proposed Regulations provide that a failure to properly use proceeds occurs on the earlier of: (1) The first date on which the public school (or academic program within the public school) fails to constitute a qualified zone academy; and (2) the first date on which an action is taken that causes the issuer to fail actually to use at least 95 percent of the proceeds of the issue for a qualified purpose with respect to a qualified zone academy. If proceeds have been spent for course materials or training described in section 1397E(d)(5)(C) or (D) with respect to a qualified zone academy, no event subsequent to such expenditure shall constitute a failure to properly use such proceeds under the 2004 Proposed Regulations.

4. Defeasance Escrow

The 2004 Proposed Regulations define ''defeasance escrow'' as an irrevocable escrow established to retire bonds on the earliest call date after the date on which the failure to properly use proceeds occurs in an amount that is sufficient to retire the bonds on that call date. At least 90 percent of the weighted average amount in a defeasance escrow must be invested in investments (as defined in § 1.148–1(b)), except that no amount in a defeasance escrow may be invested in any investment the obligor (or any person that is a related party with respect to the obligor within the meaning of § 1.150–1(b)) of which is a user of proceeds of the bonds. All purchases or sales of an investment in a defeasance escrow must be made at the fair market value of the investment within the meaning of § 1.148–5(d)(6).

Under the 2004 Proposed Regulations, the issuer must pay to the United States, at the same time and in the same manner as rebate amounts are required to be paid under § 1.148–3 (or at such other time or in such other manner as the Commissioner may prescribe), 100 percent of the investment earnings on amounts in the defeasance escrow. For this purpose, the first computation period begins on the date on which the failure to properly use proceeds occurs.

Under the 2004 Proposed Regulations, proceeds of QZABs (other than unspent proceeds of the issue for which the failure to properly use proceeds occurs) are not permitted to be used to redeem or defease the nonqualified bonds. In addition, the issuer must provide written notice to the Commissioner of the establishment of the defeasance escrow within 90 days of the date the defeasance escrow is established.

Commentators suggested various modifications to the requirement that issuers rebate to the United States 100 percent of the investment earnings on amounts in a defeasance escrow. Alternative approaches suggested by commentators included: (1) Limiting the rebate requirement to investment earnings in excess of the yield on the issue of QZABs; (2) limiting the rebate amount to investment earnings in excess of the total debt service requirements to be paid out of the defeasance escrow; and (3) limiting the rebate amount to the amount of the QZAB credit.

The IRS and Treasury Department have concluded that the rebate requirement should only apply to earnings in excess of the yield on the issue of QZABs. Thus, the Temporary Regulations provide that the issuer of QZABs with a defeasance escrow must rebate to United States any investment earnings in the defeasance escrow that are in excess of the yield, as defined in § 1.148–1(b), on the issue of QZABs. For this purpose, the credit rate for the QZAB issue is not included in the yield on the issue.

Some commentators suggested that the first computation period for rebate purposes begin on the date the defeasance escrow is established, rather than the date on which the failure to properly use proceeds occurs. These commentators noted that the 2004 Proposed Regulations create a possible 90-day period during which an issuer would be required to compute yield on an escrow that is yet to be established. The Temporary Regulations adopt the change in start date for the computation period in accordance with this comment.

One commentator recommended that certain small, low-wealth local education agencies be exempt from the rebate requirement. The IRS and the Treasury Department have considered this recommendation and have concluded that the rebate requirement is appropriate to ensure compliance with the 95-percent use-of-proceeds requirement of section 1397E(d)(1)(A), regardless of the size or wealth of the local education agency. Thus, the Temporary Regulations do not adopt this recommendation.

Some commentators suggested that the regulations provide that a defeasance of a QZAB in the context of taking a remedial action not be treated as a significant modification (within the meaning of § 1.1001–3) and reissuance of the QZAB. The Temporary Regulations do not address the circumstances in which a reissuance of a QZAB will occur. The Temporary Regulations do provide, however, that, for purposes of determining whether the establishing of a defeasance escrow as a remedial action results in an exchange under § 1.1001–1(a), the QZAB is treated as a tax-exempt bond under § 1.1001–3(e)(5)(ii)(B)(*1*). Section 1.1001–3(e)(5)(ii)(B)(*1*) provides that a defeasance of a tax-exempt bond is not a significant modification even if the issuer is released from any liability to make payments under the instrument if the defeasance occurs by operation of the terms of the original bond and the issuer places in trust government securities or tax-exempt government bonds that are reasonably expected to provide interest and principal payments sufficient to satisfy the payment obligations under the bond.

5. Alternative Use of Disposition Proceeds

The alternative use of disposition proceeds remedial action in the 2004 Proposed Regulations has four requirements. First, the failure to properly use proceeds must be a disposition of financed property described in section 1397E(d)(5)(A) or (B) and the consideration for the disposition must be exclusively cash. Second, the issuer must reasonably expect as of the date of the disposition that: (1) All of the disposition proceeds, plus any amounts received from investing the disposition proceeds, will be spent within two years after the date of the disposition for a qualified purpose with respect to a qualified zone academy; or (2) to the extent not expected to be so spent, used within 90 days after the date of the disposition to take a redemption or defeasance remedial action. Third, the disposition

proceeds, plus any amounts received from investing the disposition proceeds, must be treated as proceeds for purposes of section 1397E. Fourth, if all of the disposition proceeds, plus any amounts received from investing the disposition proceeds, are not actually spent for a qualified purpose within the two-year period beginning on the date of the disposition (or used within 90 days after the date of the disposition to take a redemption or defeasance remedial action), the remainder of such amounts must be used within 90 days after the end of that two-year period for a redemption or defeasance remedial action.

Some commentators recommended that the alternative use of disposition proceeds remedial action be modified to provide that the amounts relating to a disposition that are required to be spent for a qualified purpose be capped at the principal amount of the QZAB outstanding at the time of the disposition. The IRS and Treasury Department have considered this comment and have concluded that the requirement in the 2004 Proposed Regulations that all of the disposition proceeds, plus any amounts received from investing the disposition proceeds, be spent for a qualified purpose is appropriate to ensure that QZABs are issued for qualified purposes. Thus, the Temporary Regulations do not adopt this comment.

D. Payment of Principal, Interest or Redemption Price

The 2004 Proposed Regulations provide that the use of proceeds of a bond to pay principal, interest, or redemption price of the bond or another bond is not a qualified purpose within the meaning of section 1397E(d)(5). Thus, the use of proceeds of a bond to refund another bond is not a qualified purpose under the 2004 Proposed Regulations. In addition, the use of proceeds of a bond to fund a sinking fund to repay the bond is not a qualified purpose under the 2004 Proposed Regulations.

One commentator recommended that the 2004 Proposed Regulations be modified to permit proceeds of a QZAB to be used to repay an interim bridge loan incurred with the explicit intent to be refinanced with a subsequent issuance. In response to this comment, the Temporary Regulations provide an exception to the general rule that the use of proceeds of a bond to pay principal, interest, or redemption price of the bond or another bond is not a qualified purpose under section 1397E(d)(5).

IV. Arbitrage Investment Restrictions

New section 1397E(g) added by the 2006 Act provides that the arbitrage requirements of section 148 applicable to tax-exempt state or local governmental bonds under section 103 also apply to QZABs. The Temporary Regulations provide guidance regarding the application of the arbitrage requirements to QZABs.

In general, under section 148, subject to various prompt spending exceptions (for example, the 18-month prompt spending exception to arbitrage rebate for capital projects under § 1.148–7(d) and the 2-year construction spending exception to arbitrage rebate under section 148(f)(4)(C) and § 1.148–7(e)) and other specified exceptions (for example, the bona fide debt service exception for certain long-term tax-exempt governmental, non-private activity bonds under section 148(f)(4)(A)), the arbitrage investment restrictions, including the yield restrictions and the arbitrage rebate requirement, apply broadly to ''gross proceeds'' of tax-exempt bonds. ''Gross proceeds'' represents a broad catch-all category of bond proceeds which includes various subsidiary types of proceeds, including, among others, ''sale proceeds'' derived from the sale of bonds, ''investment proceeds'' derived from investing proceeds of bonds, and ''replacement proceeds'' with a reasonable nexus to a bond issue (for example, sinking funds reasonably expected to be used to pay debt service on bonds and pledged funds used to secure bonds).

The Temporary Regulation provide that, except as otherwise provided, the arbitrage investment restrictions under section 148 and the exceptions to those restrictions apply to gross proceeds of QZABs issued under section 1397E to the same extent and in the same manner as they apply to gross proceeds of tax-exempt state or local governmental bonds issued under section 103. For this purpose, references in the arbitrage restrictions to tax-exempt bonds generally shall be deemed to refer to QZABs and, to the extent that any particular arbitrage restriction depends on whether bonds are private activity bonds under section 141, the determination of whether QZABs are private activity bonds shall be based on the general definition of private activity bonds under section 141.

The Temporary Regulations provide limited guidance to tailor the application of the arbitrage investment restrictions to QZABs in certain specific respects. Thus, the Temporary Regulations provide that a five-year temporary period exception to the arbitrage yield restriction requirement applies to proceeds of QZABs if an issuer reasonably expects to spend 95 percent of the proceeds of an issue of QZABs for qualified purposes within the 5-year period beginning on the issue date of the QZABs.

The Temporary Regulations provide that, in determining the yield on an issue of QZABs for arbitrage purposes, the QZAB credit is disregarded. Here, yield focuses on yield paid by the issuer on the QZABs rather than the tax credit benefit to the investor.

The Temporary Regulations provide that the yield restriction rules are inapplicable to amounts placed in defeasance escrow as a remedial action. The Treasury Department and IRS have a concern that QZAB issuers may be unable to find appropriate investments of the amounts in the escrow at or below the yield on the bonds.

The Temporary Regulations provide that the exception to arbitrage yield restriction for certain investments in non-AMT tax-exempt bonds is inapplicable to QZABs. The IRS and the Treasury Department have a concern about the clear arbitrage investment potential associated with investing zero-yielding QZABs in non-AMT tax-exempt bond investments at materially higher yields.

The Temporary Regulations provide that, in determining whether an issue of QZABs qualifies for the small issuer exception to the arbitrage rebate requirement under section 148(f)(4)(D), both QZABs and tax-exempt bonds (other than private activity bonds) that are reasonably expected to be issued or actually issued by the QZAB issuer (and other covered on-behalf-of entities and subordinate entities) within a calendar year are taken into account in measuring the applicable size limitation.

Finally, consistent with the treatment of defeasance escrows for purposes of yield restriction, in applying the small issuer exception to the rebate of earnings from investments of amounts in a defeasance escrow, the Temporary Regulations provide that the issuer is not treated as a small issuer and amounts earned from such investments must be rebated to the United States.

V. Information Reporting Requirement

Issuers of QZABs must submit information reporting returns to the IRS similar to the information reporting returns required to be submitted to the IRS under section 149(e) for tax-exempt State or local bonds at the same time and manner as those reports are required to be submitted to the IRS on

such forms as shall be prescribed by the Commissioner for such purpose.

Effective/Applicability Dates

In general, except as otherwise provided, the Temporary Regulations apply to bonds sold on or after September 14, 2007.

In general, except as otherwise provided, § 1.1397E–1(h)(2), (i), and (j) of the Temporary Regulations regarding the five-year spending period, the arbitrage investment restrictions, and the information reporting requirement added by the 2006 Act apply to bonds issued pursuant to allocations of the national qualified zone academy bond volume cap authority arising in calendar years after 2005 and sold on or after September 14, 2007.

Issuers and taxpayers may apply the Temporary Regulations in whole, but not in part, to bonds sold before September 14, 2007.

Certain other special effective dates apply to particular provisions under § 1.1397E(m).

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. For applicability of the Regulatory Flexibility Act, please refer to the cross-reference notice of proposed rulemaking published elsewhere in this **Federal Register**. Pursuant to section 7805(f) of the Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal authors of these regulations are Timothy L. Jones and Zoran Stojanovic, Office of Division Counsel/Associate Chief Counsel, IRS (Tax Exempt and Governmental Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Amendments to the Regulations

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

PART 1—INCOME TAXES

■ **Paragraph 1**. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

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

Section 1.1397E–1T also issued under 26 U.S.C. 1397E. * * *

■ **Par. 2**. Section 1.1397E–1 is amended by:

■ 1. Redesignating paragraphs (i), (j) and (k) as (k), (l) and (m), respectively.

■ 2. Adding new paragraphs (i) and (j).

■ 3. Revising newly-designated paragraph (m).

The additions and revisions read as follows:

§ 1.1397E–1 Qualified zone academy bonds.

* * * * *

(i) and (j) [Reserved]. For further guidance, see § 1.1397E–1T(i) and (j).

* * * * *

(m) *Effective/applicability dates.* Except as provided in this paragraph (m), this section applies to bonds sold on or after September 26, 2000. Each of paragraphs (c) and (k) of this section may be applied by issuers to bonds that are sold before September 26, 2000.

■ **Par. 3**. Section 1.1397E–1T is added to read as follows:

§ 1.1397E–1T Qualified zone academy bonds (temporary).

(a) *In general*—(1) *Overview.* In general, a qualified zone academy bond (QZAB or QZABs) is a taxable bond issued by a state or local government the proceeds of which are used to improve certain eligible public schools. An eligible taxpayer that holds a QZAB generally is allowed annual Federal income tax credits in lieu of periodic interest payments. These credits compensate the eligible taxpayer for lending money to the issuer and function as payments of interest on the bond. Accordingly, this section generally treats the allowance of a credit as if it were a payment of interest on the bond. This section also provides other rules for QZABs, including rules governing the credit rate, the private business contribution requirement, the maximum term, use and expenditure of proceeds, remedial actions, eligible issuers, arbitrage investment restrictions, and information reporting.

(2) *Certain definitions*—(i) *In general.* For purposes of this section, except as otherwise provided in this section, the following definitions apply: the definitions set forth in this section; the definitions used for general tax-exempt bond purposes in § 1.150–1; and the definitions used for purposes of the arbitrage investment restrictions on tax-exempt bonds in § 1.148–1(b).

(ii) *Applicable definition of proceeds*—(A) U*se and expenditure provisions.* Except as provided in paragraphs (a)(2)(ii)(B) and (a)(2)(ii)(C) of this section, for purposes of all applicable requirements regarding use and expenditure of proceeds of QZABs under section 1397E and this section, proceeds means ''sale proceeds,'' as defined in § 1.148–1(b), plus ''investment proceeds,'' as defined in § 1.148–1(b).

(B) *Private business contribution requirement.* For purposes of the private business contribution requirement of section 1397E(d)(2), proceeds means ''sale proceeds,'' as defined in § 1.148–1(b).

(C) *Arbitrage investment restrictions.* For purposes of the scope of application of the arbitrage investment restrictions under section 1397E(g) and paragraph (i) of this section, proceeds generally means gross proceeds, as defined in § 1.148–1(b). In addition, in applying the arbitrage investment restrictions under paragraph (i) of this section and section 148, the various applicable definitions of the various types of proceeds of tax-exempt bonds under § 1.148–1(b) shall apply.

(b) and (c) [Reserved]. For further guidance, see § 1.1397E–1(b) and (c).

(d) *Maximum term.* The maximum term for a QZAB is determined under section 1397E(d)(3) by using a discount rate equal to 110 percent of the long-term adjusted applicable Federal rate (AFR), compounded semi-annually, for the month in which the bond is sold. The Internal Revenue Service publishes this figure each month in a revenue ruling that is published in the Internal Revenue Bulletin. See § 601.601(d)(2)(ii)(*b*) of this chapter. A bond is sold on the sale date, as defined in § 1.150–1(c)(6), which is the first day on which there is a binding contract in writing for the sale or exchange of the bond.

(e) through (g) [Reserved]. For further guidance, see § 1.1397E–1(e) through (g).

(h) *Use of proceeds*—(1) *In general.* Section 1397E(d)(1) provides that a bond issued as part of an issue is a QZAB only if, among other requirements, at least 95 percent of the proceeds of the issue are to be used for a qualified purpose with respect to a qualified zone academy established by an eligible local education agency (as defined in section 1397E(d)(4)(B)), and

the issue meets the requirements of section 1397E(f) and (g). Section 1397E(d)(5) defines *qualified purpose,* with respect to any qualified zone academy, as rehabilitating or repairing the public school facility in which such academy is established, providing equipment for use at such academy, developing course materials for education to be provided at such academy, and training teachers and other school personnel in such academy. Section 1397E(d)(4)(A) defines *qualified zone academy* as any public school (or academic program within a public school) that is established by and operated under the supervision of an eligible local education agency to provide education or training below the postsecondary level and that meets the requirements of section 1397E(d)(4)(A)(i), (ii), (iii) and (iv).

(2) *Use of proceeds requirements.* An issue meets the requirements of sections 1397E(d)(1)(A) and (f) only if—

(i) The issuer reasonably expects, as of the issue date of the issue, that—

(A) At least 95 percent of the proceeds from the sale of the issue are to be spent for 1 or more qualified purposes with respect to qualified zone academies within the 5-year period beginning on the issue date of the QZAB;

(B) A binding commitment with a third party to spend at least 10 percent of the proceeds from the sale of the issue will be incurred within the 6-month period beginning on the issue date of the QZAB;

(C) At least 95 percent of the proceeds from the sale of the issue will be spent for a qualified purpose with respect to a qualified zone academy with due diligence (with due diligence measured by the reasonableness standard under § 1.148–1(b); and

(D) At least 95 percent of the proceeds of the issue will be used for a qualified purpose with respect to a qualified zone academy for the entire term of the issue (without regard to any redemption provision); and

(ii) Except as otherwise provided in paragraph (h)(7) of this section, at least 95 percent of the proceeds of the issue are actually used for a qualified purpose with respect to a qualified academy for the entire term of the issue (without regard to any redemption provision).

(iii) *Extension of 5-year period.* The Commissioner may extend the period described in paragraph (h)(2)(i)(A) of this section if the issuer, prior to the end of such period, submits a private ruling request, and establishes to the satisfaction of the Commissioner that—

(A) The failure to satisfy the 5-year spending requirement is due to reasonable cause; and

(B) The expenditure of at least 95 percent of the proceeds from the sale of the issue will be spent for a qualified purpose with respect to a qualified zone academy will proceed with due diligence.

(3) *Unspent proceeds.* For purposes of paragraphs (h)(2)(i)(D) and (h)(2)(ii) of this section, during the period described in paragraph (h)(2)(i)(A) of this section, including any extension under paragraph (h)(2)(iii) of this section, unspent proceeds are treated as used for a qualified purpose with respect to a qualified zone academy if the issuer reasonably expects to proceed with due diligence to spend those proceeds for a qualified purpose with respect to a qualified zone academy during that period.

(4) *Proceeds spent for rehabilitation, repair or equipment*—(i) *In general.* Under section 1397E(d)(5)(A) the term *qualified purpose* with respect to any qualified zone academy includes rehabilitating or repairing the public school facility in which such academy is established. For this purpose, in determining whether proceeds are spent for rehabilitation, rules similar to those under section 47(c) (other than sections 47(c)(1)(B) and 47(c)(2)(B)(iv)) shall apply. Under section 1397E(d)(5)(B) the term *qualified purpose* also includes providing equipment for use at such academy. If proceeds of an issue are spent for a purpose described in section 1397E(d)(5)(A) or (B) with respect to a qualified zone academy, then those proceeds are treated as used for a qualified purpose with respect to the academy during any period after such expenditure that—

(A) The property financed with those proceeds is used for the purposes of the academy; and

(B) The academy maintains its status as a qualified zone academy under section 1397E(d)(4).

(ii) *Retirement from service.* The retirement from service of financed property due to normal wear or obsolescence does not cause the property to fail to be used for a qualified purpose with respect to a qualified zone academy.

(5) *Proceeds spent to develop course materials or train teachers.* Section 1397E(d)(5)(C) and (D) provides that the term *qualified purpose* with respect to any qualified zone academy includes developing course materials for education to be provided at such academy, and training teachers and other school personnel in such academy. If proceeds of an issue are spent for a purpose described in section 1397E(d)(5)(C) or (D) with respect to a qualified zone academy, then those proceeds are treated as used for a qualified purpose with respect to the academy during any period after such expenditure.

(6) *Special rule for determining status as qualified zone academy.* Section 1397E(d)(4)(A)(iv) provides that a public school (or academic program within a public school) is a qualified zone academy only if, among other requirements, the public school is located in an empowerment zone or enterprise community (as defined in section 1393), or there is a reasonable expectation (as of the issue date of the issue) that at least 35 percent of the students attending the school or participating in the program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act. For purposes of determining whether an issue complies with section 1397E(d)(4)(A)(iv)—

(i) A public school is treated as located in an empowerment zone or enterprise community for the entire term of the issue if the public school is located in an empowerment zone or enterprise community on the issue date of the issue; and

(ii) The determination of whether there is a reasonable expectation (as of the issue date of the issue) that at least 35 percent of the students attending the school or participating in the program (as the case may be) will be eligible for free or reduced-cost lunches under the school lunch program established under the Richard B. Russell National School Lunch Act is based on expectations regarding the one-year period following the issue date.

(7) *Remedial actions*—(i) *General rule.* If less than 95 percent of the proceeds of an issue are properly used (as determined under paragraph (h)(7)(ii)(D) of this section), the issue will be treated as meeting the requirements of section 1397E(d)(1)(A) if the issue met the requirements of paragraph (h)(2)(i) of this section and a remedial action is taken under paragraph (h)(7)(ii) or (iii) of this section.

(ii) *Redemption or defeasance*—(A) *In general.* A remedial action is taken under this paragraph (h)(7)(ii) if the requirements of paragraphs (h)(7)(ii)(B) and (C) of this section are met.

(B) *Retirement of nonqualified bonds*—(1) *In general.* The requirements of this paragraph (h)(7)(ii)(B) are met if—

(*i*) All of the nonqualified bonds of the issue (determined by applying the

principles of § 1.142–2(e)) are redeemed within 90 days after the date on which the failure to properly use proceeds occurs; or

(*ii*) To the extent of proceeds of the issue that have been actually spent for a qualified purpose with respect to a qualified zone academy, if any nonqualified bonds of the issue are not redeemed within 90 days after the date on which the failure to properly use such proceeds occurs (the unredeemed nonqualified bonds), a defeasance escrow is established for the unredeemed nonqualified bonds within 90 days after the date on which the failure to properly use proceeds occurs.

(*2*) *Special rule for dispositions for cash.* If the failure to properly use proceeds is a disposition of financed property described in section 1397E(d)(5)(A) or (B) and the consideration for the disposition is exclusively cash, the requirements of this paragraph (h)(7)(ii)(B) are met if all of the disposition proceeds (as defined in paragraph (h)(7)(iv) of this section) are used within 90 days after the date of the disposition to redeem, or establish a defeasance escrow for, a pro rata portion of the nonqualified bonds of the issue.

(*3*) *Definition of defeasance escrow.* For purposes of this section, a defeasance escrow is an irrevocable escrow established to retire nonqualified bonds on the earliest call date after the date on which the failure to properly use proceeds occurs in an amount that is sufficient to retire nonqualified bonds on that call date. At least 90 percent of the weighted average amount in a defeasance escrow must be invested in investments (as defined in § 1.148–1(b)), except that no amount in a defeasance escrow may be invested in any investment the obligor (or any person that is a related party with respect to the obligor within the meaning of § 1.150–1(b)) of which is a user of proceeds of the bonds. All purchases or sales of an investment in a defeasance escrow must be made at the fair market value of the investment within the meaning of § 1.148–5(d)(6).

(C) *Additional rules*—(*1*) *Limitation on source of funding.* Proceeds of an issue of QZABs (other than unspent proceeds of the issue for which the failure to properly use proceeds occurs) must not be used to redeem or defease nonqualified bonds under paragraph (h)(7)(ii)(B) of this section.

(2) *Rebate requirement.* The issuer must pay to the United States, at the same time and in the same manner as rebate amounts are required to be paid under § 1.148–3 (or at such other time or in such other manner as the Commissioner may prescribe), any investment earnings on amounts in a defeasance escrow established under paragraph (h)(7)(ii)(B) of this section that are in excess of the yield on the issue of QZABs with respect to which the defeasance escrow was established. For this purpose, the first computation period begins on the date on which the defeasance escrow is established.

(3) *Notice of defeasance.* The issuer must provide written notice to the Commissioner, at the place designated in § 1.150–5(a), of the establishment of the defeasance escrow within 90 days of the date the defeasance escrow is established.

(D) *When a failure to properly use proceeds occurs*—(*1*) *Unspent proceeds.* For unspent proceeds, a failure to properly use proceeds occurs on the earlier of—

(*i*) The first date on which the public school (or academic program within the public school) fails to constitute a qualified zone academy;

(*ii*) The first date on which the issuer fails to have a reasonable expectation to proceed with due diligence to spend at least 95 percent of the proceeds of the issue for a qualified purpose with respect to a qualified zone academy; or

(*iii*) The last day of the period described in paragraph (h)(2)(i)(A) of this section, including any extension, if less than 95 percent of the proceeds of the issue are actually spent for a qualified purpose with respect to a qualified zone academy.

(*2*) *Proceeds spent for rehabilitation, repair or equipment.* For proceeds that have been spent for a purpose described in section 1397E(d)(5)(A) or (B) with respect to a qualified zone academy, a failure to properly use proceeds occurs on the earlier of—

(*i*) The first date on which the public school (or academic program within the public school) fails to constitute a qualified zone academy; and

(*ii*) The first date on which an action is taken that causes the issuer to fail to actually to use at least 95 percent of the proceeds of the issue for a qualified purpose with respect to a qualified zone academy.

(*3*) *Proceeds spent for course materials or training.* If proceeds have been spent for a purpose described in section 1397E(d)(5)(C) or (D) with respect to a qualified zone academy, no event subsequent to such expenditure shall constitute a failure to properly use such proceeds.

(iii) *Alternative use of disposition proceeds.* A remedial action is taken under this paragraph (h)(7)(iii) if all of the requirements of paragraphs (h)(7)(iii)(A) through (D) of this section are met—

(A) The failure to properly use proceeds (as determined under paragraph (h)(7)(ii)(D) of this section) is a disposition of financed property described in section 1397E(d)(5)(A) or (B) and the consideration for the disposition is exclusively cash;

(B) The issuer reasonably expects as of the date of the disposition that—

(*1*) All of the disposition proceeds will be spent within the two-year period beginning with the date of the disposition for a qualified purpose with respect to a qualified zone academy; or

(*2*) To the extent not expected to be so spent, the disposition proceeds will be used within 90 days after the date of the disposition to redeem or defease bonds in a manner that meets the requirements of paragraph (h)(7)(ii) of this section;

(C) The disposition proceeds are treated as proceeds for purposes of section 1397E; and

(D) If all of the disposition proceeds are not actually used in the manner described in paragraph (h)(7)(iii)(B) of this section, the remainder of such amounts are used within 90 days after the end of the period described in paragraph (h)(7)(iii)(B)(*1*) of this section for a remedial action that meets the requirements of paragraph (h)(7)(ii) of this section.

(iv) *Definition of disposition proceeds and allocation among multiple funding sources.* For purposes of this paragraph (h)(7), disposition proceeds means *disposition proceeds,* as defined in § 1.141–12(c)(1), plus amounts derived from investing disposition proceeds. If property has been financed with an issue of QZABs and one or more other funding sources, any disposition proceeds from that property are allocated to the issue under the principles of § 1.141–12(c)(3).

(8) *Payment of principal, interest or redemption price—(i) In general.* Except as provided in paragraphs (h)(8)(ii) and (h)(8)(iii) of this section, the use of proceeds of a bond to pay principal, interest, or redemption price of the bond or another bond is not a qualified purpose within the meaning of section 1397E(d)(5).

(ii) *Exception for certain eligible reimbursements of interim refinancings.* The use of proceeds of a bond (the refinancing bond) to pay principal, interest or redemption price of another bond (the prior bond) is a qualified purpose within the meaning of section 1397E(d)(5) to the extent that—

(A) The prior bond was not a QZAB (and, in the case of a series of

refinancings, no earlier bond in the series was a QZAB);

(B) The proceeds of the prior bond (or the original bond in the case of a series of refinancings, as applicable) were spent for a qualified purpose under section 1397E(d)(5) (the original expenditure); and

(C) The issuer makes a valid reimbursement allocation to allocate the proceeds of the refinancing bond to the payment of the original expenditure (the reimbursement allocation), which allocation satisfies the requirements for reimbursements under paragraph (h)(9) of this section. For purposes of applying the rules for reimbursement, a refinancing bond which otherwise meets the requirements of this paragraph (h)(8)(ii) is eligible for reimbursement and is not treated as a disqualified refunding under § 1.150–2(g).

(iii) *Reissuance of a QZAB.* For purposes of determining whether the establishing of a defeasance escrow under paragraph (h)(7)(ii)(B)(*1*)(*ii*) of this section results in an exchange under § 1.1001–1(a), the QZAB is treated as a tax-exempt bond under § 1.1001–3(e)(5)(ii)(B)(*1*).

(9) *Reimbursement.* An expenditure for a qualified purpose may be reimbursed with proceeds of a QZAB. For this purpose, rules similar to those on reimbursement of expenditures in § 1.142–4(b) and § 1.150–2 shall apply. In applying these reimbursement rules, expenditures eligible for reimbursement under § 1.150–2(d)(3) shall be deemed to mean any expenditure for a qualified purpose under section 1397E(d)(5).

(i) *Arbitrage investment restrictions*—(1) *In general.* Under section 1397E(g) and this paragraph (i), and except as otherwise provided in this paragraph (i), the arbitrage investment restrictions and rebate requirements under section 148 and § 1.148–1 to § 1.148–11, inclusive, and the exceptions to those restrictions, apply broadly to gross proceeds of QZABs issued under section 1397E to the same extent and in the same manner as they apply to gross proceeds of tax-exempt state or local governmental bonds. For this purpose, references in those sections to tax-exempt bonds generally shall be deemed to refer to QZABs and, to the extent that any particular arbitrage restriction depends on whether bonds are private activity bonds under section 141, the determination of whether QZABs are private activity bonds shall be based on the general definition of private activity bonds under section 141. In applying section 148 and the regulations under that section to QZABs, the modifications set forth in paragraphs (i)(2) through (6) of this section shall apply.

(2) *5-year temporary period exception to arbitrage yield restriction.* If an issue of QZABs meets the requirements of section 1397E(f)(1) and paragraph (h)(2)(i) of this section, then the proceeds of the issue of QZABs are treated as qualifying for a 5-year temporary period exception to arbitrage yield restriction under § 1.148–2(e)(2) beginning on issue date of the issue.

(3) *Disregard QZAB credit in QZAB yield for arbitrage purposes.* In determining the yield on an issue of QZABs for arbitrage purposes under § 1.148–4, the QZAB credit allowed under section 1397E(a) is disregarded.

(4) *Non-AMT tax-exempt bond investment exception inapplicable.* The exception to arbitrage yield restriction for investments of gross proceeds of tax-exempt bonds in specified tax-exempt bond investments not subject to section 148(b)(3)(B) (relating to an exception to the definition of ''investment property'' for specified tax-exempt bonds) and § 1.148–2(d)(2)(v) (relating to a corresponding exception to arbitrage yield limitations) is inapplicable.

(5) *Application of small issuer exception to the arbitrage rebate requirement.* Except as otherwise provided in paragraph (i)(6) of this section, for purposes of the small issuer exception to the arbitrage rebate requirement under section 148(f)(4)(D) and § 1.148–8, both QZABs and tax-exempt bonds (other than private activity bonds) that are actually issued or reasonably expected to be issued by the QZAB issuer (and applicable entities aggregated under section 148(f)(4)(D)) within a calendar year are taken into account in measuring the applicable size limitation.

(6) *Certain defeasance escrow earnings.* With respect to a defeasance escrow established in a remedial action for an issue of QZABs that meets the special rebate requirement under paragraph (d)(7)(ii)(C)(*2*) of this section, the QZAB issuer is treated as ineligible for the small issuer exception to arbitrage rebate under section 148(f)(4)(D) and paragraph (i)(5) of this section and compliance with that special rebate requirement is treated as satisfying applicable arbitrage investment restrictions under section 148 for that defeasance escrow.

(j) *Information reporting requirement.* Under section 1397E(h) and this paragraph (j), issuers of QZABs are required to submit information reporting returns to the IRS similar to the information reporting returns required to be submitted to the IRS under section 149(e) for tax-exempt state or local governmental bonds at the same time and in the same manner as those reports are required to be submitted to the IRS on such forms as shall be prescribed by the Commissioner for such purpose.

(k) and (l) [Reserved]. For further guidance, see § 1.1397E–1(k) and (l).

(m) *Effective/applicability dates*—(1) *In general.* Except as otherwise provided in this paragraph (m), this section applies to bonds sold on or after September 14, 2007.

(2) *Special effective dates*—(i) *Effective dates for paragraphs (h)(2), (i), and (j) of this section in general.* Paragraphs (h)(2), (i), and (j) of this section apply to bonds issued pursuant to allocations of the national qualified zone academy bond volume cap authority for calendar years after 2005 and sold on or after September 14, 2007.

(ii) *Permissive retroactive application*—(A) *In general.* Except as otherwise provided in this paragraph (m), issuers and taxpayers may apply this section in whole, but not in part, to bonds sold before September 14, 2007.

(B) *Special rule for certain provisions.* For purposes of the permissive retroactive application rule in paragraph (m)(2)(ii)(A) of this section, paragraphs (h)(2), (i), and (j) of this section need not be applied to any bonds to which those provisions do not otherwise apply under the general effective date provisions for those provisions in paragraph (m)(2)(i) of this section.

(C) *Definition of proceeds.* Issuers and taxpayers may apply paragraphs (d) and (h) of this section, without regard to the definition of proceeds in paragraph (a)(2)(ii) of this section, to bonds sold before September 14, 2007.

(D) *Bonds issued before July 1, 1999.* Paragraphs (d) and (h)(9) of this section may not be applied to bonds issued before July 1, 1999.

(3) *Expiration date.* The applicability of this section expires on or before July 13, 2010.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

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

Authority: 26 U.S.C. 7805.

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

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * *	
1.1397E–1T	1545–1908
* * * *	

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

Approved: July 3, 2007.

Eric Solomon,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. E7–13665 Filed 7–13–07; 8:45 am]

BILLING CODE 4830–01–P

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Privacy Act of 1974; Implementation

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The National Labor Relations Board (NLRB) issues a final rule exempting three systems of records and portions of four other systems of records from certain provisions of the Privacy Act of 1974, 5 U.S.C. 552a, pursuant to Section (k)(2) of that Act, 5 U.S.C. 552a(k)(2), and amending existing Privacy Act regulations for clarity.

DATES: Effective July 16, 2007.

FOR FURTHER INFORMATION CONTACT: Tommie Gregg, Sr., Privacy Officer, National Labor Relations Board, Room 7608, 1099 14th Street, NW., Washington, DC 20570–0001, (202) 273–2833, *Tommie.Gregg@nlrb.gov.*

SUPPLEMENTARY INFORMATION: On December 13, 2006, the NLRB published in the **Federal Register** a notice proposing twelve systems of records under the Privacy Act of 1974, nine of which consist of an electronic case tracking system and associated paper or electronic files, and the remaining three systems consist of electronic case tracking systems only. The same day, the NLRB also published in the **Federal Register** a notice of proposed rule exempting three of the systems of records and portions of four other systems of records from certain provisions of the Privacy Act, and amending the NLRB's existing Privacy Act regulations for clarity. Both notices provided for a public comment period.

In the absence of any comments, the proposed systems of records became final 40 days thereafter.

No comments were filed regarding the proposed rule exempting three of the systems of records and portions of four other systems of records from certain provisions of the Privacy Act, and amending the NLRB's existing Privacy Act regulations for clarity. Accordingly, the Board has decided to implement the proposed rule as a final rule, with changes to certain CFR section numbers. In particular, the proposed rule amended the Agency's existing Privacy Act regulations by removing them from Sections 102.117(f) through (q) of subpart K, and inserting them as Sections 102.117a(a) through (n) of subpart K. In order to maintain the orderly codification of the CFR, the Agency's Privacy Act regulations instead will be inserted as Sections 102.119(a) through (n) of subpart K. The Agency's current regulation at subpart L, Section 102.119 (Post-employment Restriction on Activities by Former Officers and Employees), is now re-designated as subpart L, Section 102.120.

This rule relates to individuals rather than small business entities. Accordingly, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, this rule will not have a significant impact on a substantial number of small business entities.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Agency has determined that this rule will not impose new recordkeeping, application, reporting, or other types of information collection requirements on the public.

The rule 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 levels of government. Therefore, it is determined that this rule does not have federalism implications under Executive Order 13132.

In accordance with Executive Order 12866, it has been determined that this rule is not a ''significant regulatory action,'' and therefore does not require a Regulatory Impact Analysis.

List of Subjects in 29 CFR Part 102

Privacy, Reporting and recordkeeping requirements.

■ For the reasons stated in the above Supplementary Information section, Part 102 of title 29, ch. I of the Code of Federal Regulations, is amended as follows:

PART 102—RULES AND REGULATIONS, SERIES 8

■ 1. The authority citation for part 102 is revised to read as follows:

Authority: Sections 1, 6, National Labor Relations Act (29 U.S.C. 151, 156). Section 102.117 also issued under section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)), and Section 102.117a also issued under section 552a(j) and (k) of the Privacy Act of 1974 (5 U.S.C. 552a(j) and (k)). Sections 102.143 through 102.155 also issued under section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

■ 2. Section 102.117 is amended by removing paragraphs (f) through (q) and by revising the section heading to read as follows:

§ 102.117 Freedom of Information Act Regulations: Board materials and formal documents available for public inspection and copying; requests for described records; time limit for response; appeal from denial of request; fees for document search and duplication; files and records not subject to inspection.

* * * * *

§ 102.119 [Redesignated as § 102.120]

■ 3. Section 102.119 is redesignated as § 102.120.

■ 4. A new § 102.119 is added to subpart K to read as follows:

§ 102.119 Privacy Act Regulations: notification as to whether a system of records contains records pertaining to requesting individuals; requests for access to records, amendment of such records, or accounting of disclosures; time limits for response; appeal from denial of requests; fees for document duplication; files and records exempted from certain Privacy Act requirements.

(a) An individual will be informed whether a system of records maintained by this Agency contains a record pertaining to such individual. An inquiry should be made in writing or in person during normal business hours to the official of this Agency designated for that purpose and at the address set forth in a notice of a system of records published by this Agency, in a Notice of Systems of Governmentwide Personnel Records published by the Office of Personnel Management, or in a Notice of Governmentwide Systems of Records published by the Department of Labor. Copies of such notices, and assistance in preparing an inquiry, may be obtained from any Regional Office of the Board or at the Board offices at 1099 14th Street, NW., Washington, DC 20570. The inquiry should contain sufficient information, as defined in the notice, to identify the record.

Reasonable verification of the identity of the inquirer, as described in

paragraph (e) of this section, will be required to assure that information is disclosed to the proper person. The Agency shall acknowledge the inquiry in writing within 10 days (excluding Saturdays, Sundays, and legal public holidays) and, wherever practicable, the acknowledgment shall supply the information requested. If, for good cause shown, the Agency cannot supply the information within 10 days, the inquirer shall within that time period be notified in writing of the reasons therefor and when it is anticipated the information will be supplied. An acknowledgment will not be provided when the information is supplied within the 10-day period. If the Agency refuses to inform an individual whether a system of records contains a record pertaining to an individual, the inquirer shall be notified in writing of that determination and the reasons therefor, and of the right to obtain review of that determination under the provisions of paragraph (f) of this section. The provisions of this paragraph do not apply to the extent that requested information from the relevant system of records has been exempted from this Privacy Act requirement.

(b) An individual will be permitted access to records pertaining to such individual contained in any system of records described in the notice of system of records published by this Agency, or access to the accounting of disclosures from such records. The request for access must be made in writing or in person during normal business hours to the person designated for that purpose and at the address set forth in the published notice of system of records. Copies of such notices, and assistance in preparing a request for access, may be obtained from any Regional Office of the Board or at the Board offices at 1099 14th Street, NW., Washington, DC 20570. Reasonable verification of the identity of the requester, as described in paragraph (e) of this section, shall be required to assure that records are disclosed to the proper person. A request for access to records or the accounting of disclosures from such records shall be acknowledged in writing by the Agency within 10 days of receipt (excluding Saturdays, Sundays, and legal public holidays) and, wherever practicable, the acknowledgment shall inform the requester whether access will be granted and, if so, the time and location at which the records or accounting will be made available. If access to the record or accounting is to be granted, the record or accounting will normally be provided within 30 days (excluding Saturdays, Sundays, and legal public holidays) of the request, unless for good cause shown the Agency is unable to do so, in which case the individual will be informed in writing within that 30-day period of the reasons therefor and when it is anticipated that access will be granted. An acknowledgment of a request will not be provided if the record is made available within the 10-day period.

If an individual's request for access to a record or an accounting of disclosure from such a record under the provisions of this paragraph is denied, the notice informing the individual of the denial shall set forth the reasons therefor and advise the individual of the right to obtain a review of that determination under the provisions of paragraph (f) of this section. The provisions of this paragraph do not apply to the extent that requested information from the relevant system of records has been exempted from this Privacy Act requirement.

(c) An individual granted access to records pertaining to such individual contained in a system of records may review all such records. For that purpose the individual may be accompanied by a person of the individual's choosing, or the record may be released to the individual's representative who has written consent of the individual, as described in paragraph (e) of this section. A first copy of any such record or information will ordinarily be provided without charge to the individual or representative in a form comprehensible to the individual. Fees for any other copies of requested records shall be assessed at the rate of 10 cents for each sheet of duplication.

(d) An individual may request amendment of a record pertaining to such individual in a system of records maintained by this Agency. A request for amendment of a record must be in writing and submitted during normal business hours to the person designated for that purpose and at the address set forth in the published notice for the system of records containing the record of which amendment is sought. Copies of such notices, and assistance in preparing a request for amendment, may be obtained from any Regional Office of the Board or at the Board offices at 1099 14th Street, NW., Washington, DC 20570. The requester must provide verification of identity as described in paragraph (e) of this section, and the request should set forth the specific amendment requested and the reason for the requested amendment. The Agency shall acknowledge in writing receipt of the request within 10 days of receipt (excluding Saturdays, Sundays, and legal public holidays) and, wherever practicable, the acknowledgment shall advise the individual of the determination of the request. If the review of the request for amendment cannot be completed and a determination made within 10 days, the review shall be completed as soon as possible, normally within 30 days (Saturdays, Sundays, and legal public holidays excluded) of receipt of the request unless unusual circumstances preclude completing the review within that time, in which event the requester will be notified in writing within that 30-day period of the reasons for the delay and when the determination of the request may be expected. If the determination is to amend the record, the requester shall be so notified in writing and the record shall be amended in accordance with that determination. If any disclosures accountable under the provisions of 5 U.S.C. 552a(c) have been made, all previous recipients of the record which was amended shall be advised of the amendment and its substance. If it is determined that the request should not be granted, the requester shall be notified in writing of that determination and of the reasons therefor, and advised of the right to obtain review of the adverse determination under the provisions of paragraph (f) of this section. The provisions of this paragraph do not apply to the extent that requested information from the relevant system of records has been exempted from this Privacy Act requirement.

(e) Verification of the identification of individuals required under paragraphs (a), (b), (c), and (d) of this section to assure that records are disclosed to the proper person shall be required by the Agency to an extent consistent with the nature, location, and sensitivity of the records being disclosed. Disclosure of a record to an individual in person will normally be made upon the presentation of acceptable identification. Disclosure of records by mail may be made on the basis of the identifying information set forth in the request. Depending on the nature, location, and sensitivity of the requested record, a signed notarized statement verifying identity may be required by the Agency. Proof of authorization as representative to have access to a record of an individual shall be in writing, and a signed notarized statement of such authorization may be required by the Agency if the record requested is of a sensitive nature.

(f)(1) Review may be obtained with respect to:

(i) A refusal, under paragraph (a) or (g) of this section, to inform an

individual if a system of records contains a record concerning that individual,

(ii) A refusal, under paragraph (b) or (g) of this section, to grant access to a record or an accounting of disclosure from such a record, or

(iii) A refusal, under paragraph (d) of this section, to amend a record.

(iv) The request for review should be made to the Chairman of the Board if the system of records is maintained in the office of a Member of the Board, the office of the Executive Secretary, the office of the Solicitor, the Division of Information, or the Division of Administrative Law Judges. Consonant with the provisions of section 3(d) of the National Labor Relations Act, and the delegation of authority from the Board to the General Counsel, the request should be made to the General Counsel if the system of records is maintained by an office of the Agency other than those enumerated above. Either the Chairman of the Board or the General Counsel may designate in writing another officer of the Agency to review the refusal of the request. Such review shall be completed within 30 days (excluding Saturdays, Sundays, and legal public holidays) from the receipt of the request for review unless the Chairman of the Board or the General Counsel, as the case may be, for good cause shown, shall extend such 30-day period.

(2) If, upon review of a refusal under paragraph (a) or (g) of this section, the reviewing officer determines that the individual should be informed of whether a system of records contains a record pertaining to that individual, such information shall be promptly provided. If the reviewing officer determines that the information was properly denied, the individual shall be so informed in writing with a brief statement of the reasons therefor.

(3) If, upon review of a refusal under paragraph (b) or (g) of this section, the reviewing officer determines that access to a record or to an accounting of disclosures should be granted, the requester shall be so notified and the record or accounting shall be promptly made available to the requester. If the reviewing officer determines that the request for access was properly denied, the individual shall be so informed in writing with a brief statement of the reasons therefor, and of the right to judicial review of that determination under the provisions of 5 U.S.C. 552a(g)(1)(B).

(4) If, upon review of a refusal under paragraph (i) of this section, the reviewing official grants a request to amend, the requester shall be so notified, the record shall be amended in accordance with the determination, and, if any disclosures accountable under the provisions of 5 U.S.C. 552a(c) have been made, all previous recipients of the record which was amended shall be advised of the amendment and its substance. If the reviewing officer determines that the denial of a request for amendment should be sustained, the Agency shall advise the requester of the determination and the reasons therefor, and that the individual may file with the Agency a concise statement of the reason for disagreeing with the determination, and may seek judicial review of the Agency's denial of the request to amend the record. In the event a statement of disagreement is filed, that statement—

(i) Will be made available to anyone to whom the record is subsequently disclosed together with, at the discretion of the Agency, a brief statement summarizing the Agency's reasons for declining to amend the record, and

(ii) Will be supplied, together with any Agency statements, to any prior recipients of the disputed record to the extent that an accounting of disclosure was made.

(g) To the extent that portions of system of records described in notices of Governmentwide systems of records published by the Office of Personnel Management are identified by those notices as being subject to the management of an officer of this Agency, or an officer of this Agency is designated as the official to contact for information, access, or contents of those records, individual requests for access to those records, requests for their amendment, and review of denials of requests for amendment shall be in accordance with the provisions of 5 CFR part 297, subpart A, § 297.101, *et seq.*, as promulgated by the Office of Personnel Management. To the extent that portions of system of records described in notices of Governmentwide system of records published by the Department of Labor are identified by those notices as being subject to the management of an officer of this Agency, or an officer of this Agency is designated as the official to contact for information, access, or contents of those records, individual requests for access to those records, requests for their amendment, and review of denials of requests for amendment shall be in accordance with the provisions of this rule. Review of a refusal to inform an individual whether such a system of records contains a record pertaining to that individual and review of a refusal to grant an individual's request for access to a record in such a system may be obtained in accordance with the provisions of paragraph (f) of this section.

(h) Pursuant to 5 U.S.C. 552a(j)(2), the system of records maintained by the Office of the Inspector General of the National Labor Relations Board that contains Investigative Files shall be exempted from the provisions of 5 U.S.C. 552a, except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i), from 29 CFR 102.117(c) and (d), and from 29 CFR 102.119(a), (b), (c), (d), (e), and (f), insofar as the system contains investigatory material compiled for criminal law enforcement purposes.

(i) Pursuant to 5 U.S.C. 552a(k)(2), the system of records maintained by the Office of the Inspector General of the National Labor Relations Board that contains the Investigative Files shall be exempted from 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f), from 29 CFR 102.117 (c) and (d), and from 29 CFR 102.119(a), (b), (c), (d), (e), and (f), insofar as the system contains investigatory material compiled for law enforcement purposes not within the scope of the exemption at 29 CFR 102.119(h).

(j) Privacy Act exemptions contained in paragraphs (h) and (i) of this section are justified for the following reasons:

(1) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his/her request. These accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Accounting for each disclosure would alert the subjects of an investigation to the existence of the investigation and the fact that they are subjects of the investigation. The release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation and could seriously impede or compromise the investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel, and their families and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(2) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of the Act. Since this system of records is being exempted from subsection (d) of the Act, concerning access to records, this section is inapplicable to the extent that this system of records will be

exempted from subsection (d) of the Act.

(3) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him/her, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting access to records in this system of records could inform the subject of an investigation of an actual or potential criminal violation, of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his/her activities, or of the identity of confidential sources, witnesses, and law enforcement personnel and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel, and their families, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony, and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified, security-sensitive, or confidential business information and could constitute an unwarranted invasion of the personal privacy of others.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations and law enforcement because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation, the investigator may obtain information which is incidental to the main purpose of the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation, the investigator may obtain information concerning the violation of laws other than those which are within the scope of his/her jurisdiction. In the interest of effective law enforcement, OIG investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for other law enforcement agencies.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision could impair investigations and law enforcement by alerting the subject of an investigation, thereby enabling the subject to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Moreover, in certain circumstances, the subject of an investigation cannot be required to provide information to investigators and information must be collected from other sources. Furthermore, it is often necessary to collect information from sources other than the subject of the investigation to verify the accuracy of the evidence collected.

(6) 5 U.S.C. 552a(e)(3) requires an agency to inform each person whom it asks to supply information, on a form that can be retained by the person, of the authority under which the information is sought and whether disclosure is mandatory or voluntary; of the principal purposes for which the information is intended to be used; of the routine uses which may be made of the information; and of the effects on the person, if any, of not providing all or any part of the requested information. The application of this provision could provide the subject of an investigation with substantial information about the nature of that investigation that could interfere with the investigation. Moreover, providing such a notice to the subject of an investigation could seriously impede or compromise an undercover investigation by revealing its existence and could endanger the physical safety of confidential sources, witnesses, and investigators by revealing their identities.

(7) 5 U.S.C. 552a(e)(4)(G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual, at his/her request, if the system of records contains a record pertaining to him/her, how to gain access to such a record and how to contest its content. Since this system of records is being exempted from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable to the extent that this system of records will be exempt from subsections (f) and (d) of the Act. Although the system would be exempt from these requirements, OIG has published information concerning its notification, access, and contest procedures because, under certain circumstances, OIG could decide it is appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(8) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses, and to avoid the disclosure of investigative techniques and procedures. Although the system will be exempt from this requirement, OIG has published such a notice in broad generic terms.

(9) 5 U.S.C. 552a(e)(5) requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about the individual. Since the Act defines ''maintain'' to include the collection of information, complying with this provision could prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment it is collected. In collecting information for criminal law enforcement purposes, it is not possible to determine in advance what information is accurate, relevant, timely, and complete. Facts are first gathered and then placed into a logical order to prove or disprove objectively the criminal behavior of an individual. Material which seems unrelated, irrelevant, or incomplete when collected can take on added meaning or significance as the investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigative report, thereby impeding effective law enforcement.

(10) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. Complying with this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(11) 5 U.S.C. 552a(f)(1) requires an agency to promulgate rules which shall establish procedures whereby an individual can be notified in response to his/her request if any system of records named by the individual contains a record pertaining to him/her. The application of this provision could impede or compromise an investigation or prosecution if the subject of an investigation were able to use such rules to learn of the existence of an investigation before it could be completed. In addition, mere notice of the fact of an investigation could inform the subject and others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since this system would be exempt from subsection (d) of the Act, concerning access to records, the requirements of subsection (f)(2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable to the extent that this system of records will be exempted from subsection (d) of the Act. Although this system would be exempt from the requirements of subsection (f) of the Act, OIG has promulgated rules which establish agency procedures because, under certain circumstances, it could be appropriate for an individual to have access to all or a portion of his/her records in this system of records.

(12) 5 U.S.C. 552a(g) provides for civil remedies if an agency fails to comply with the requirements concerning access to records under subsections (d)(1) and (3) of the Act; maintenance of records under subsection (e)(5) of the Act; and any other provision of the Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual. Since this system of records would be exempt from subsections (c)(3) and (4), (d), (e)(1), (2), and (3) and (4)(G) through (I), (e)(5), and (8), and (f) of the Act, the provisions of subsection (g) of the Act would be inapplicable to the extent that this system of records will be exempted from those subsections of the Act.

(k) Pursuant to 5 U.S.C. 552a(k)(2), the system of records maintained by the NLRB containing Agency Disciplinary Case Files (Nonemployees) shall be exempted from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f) insofar as the system contains investigatory material compiled for law enforcement purposes other than material within the scope of 5 U.S.C. 552a(j)(2).

(l) The Privacy Act exemption set forth in paragraph (k) of this section is claimed on the ground that the requirements of subsections (c)(3), (d), (e)(1), (e)(4) (G), (H), and (I), and (f) of the Privacy Act, if applied to Agency Disciplinary Case Files, would seriously impair the ability of the NLRB to conduct investigations of alleged or suspected violations of the NLRB's misconduct rules, as set forth in paragraphs (j)(1), (3), (4), (7), (8), and (11) of this section.

(m) Pursuant to 5 U.S.C. 552a(k)(2), the following three proposed systems of records shall be exempted in their entirety from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f), because the systems contain investigatory material compiled for law enforcement purposes, other than material within the scope of 5 U.S.C. 552a(j)(2): Case Activity Tracking System (CATS) and Associated Regional Office Files (NLRB–25), Regional Advice and Injunction Litigation System (RAILS) and Associated Headquarters Files (NLRB–28), and Appeals Case Tracking System (ACTS) and Associated Headquarters Files (NLRB–30). Pursuant to 5 U.S.C. 552a(k)(2), limited categories of information from the following four proposed systems of records shall be exempted from the provisions of 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), (e)(4)(I), and (f), insofar as the systems contain investigatory material compiled for law enforcement purposes, other than material within the scope of 5 U.S.C. 552a(j)(2):

(1) the Judicial Case Management Systems–Pending Case List (JCMS–PCL) and Associated Headquarters Files (NLRB–21)—information relating to requests to file injunctions under 29 U.S.C. 160(j), requests to initiate federal court contempt proceedings, certain requests that the Board initiate litigation or intervene in non-Agency litigation, and any other investigatory material compiled for law enforcement purposes;

(2) the Solicitor's System (SOL) and Associated Headquarters Files (NLRB–23)—information relating to requests to file injunctions under 29 U.S.C. 160(j), requests to initiate federal court contempt proceedings, certain requests that the Board initiate litigation or intervene in non-Agency litigation, and any other investigatory material compiled for law enforcement purposes;

(3) the Special Litigation Case Tracking System (SPLIT) and Associated Headquarters Files (NLRB–27)—information relating to investigative subpoena enforcement cases, injunction and mandamus actions regarding Agency cases under investigation, bankruptcy case information in matters under investigation, Freedom of Information Act cases involving investigatory records, certain requests that the Board initiate litigation or intervene in non-Agency litigation, and any other investigatory material compiled for law enforcement purposes; and

(4) The Freedom of Information Act Tracking System (FTS) and Associated Agency Files (NLRB–32)—information requested under the Freedom of Information Act, 5 U.S.C. 552, that relates to the Agency's investigation of unfair labor practice and representation cases or other proceedings described in paragraphs (m)(1) through (3) of this section.

(n) The reasons for exemption under 5 U.S.C. 552a(k)(2) are as follows:

(1) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at such individual's request. These accountings must state the date, nature, and purpose of each disclosure of a record, and the name and address of the recipient. Providing such an accounting of investigatory information to a party in an unfair labor practice or representation matter under investigation could inform that individual of the precise scope of an Agency investigation, or the existence or scope of another law enforcement investigation. Accordingly, this Privacy Act requirement could seriously impede or compromise either the Agency's investigation, or another law enforcement investigation, by causing the improper influencing of witnesses, retaliation against witnesses, destruction of evidence, or fabrication of testimony.

(2) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to such individual, to request amendment to such records, to request review of an agency decision not to amend such records, and, where the Agency refuses to amend records, to submit a statement of disagreement to be included with the records. Such disclosure of investigatory information could seriously impede or compromise the Agency's investigation by revealing the identity of confidential sources or confidential business information, or causing the improper influencing of witnesses, retaliation against witnesses, destruction of evidence, fabrication of testimony, or unwarranted invasion of the privacy of others. Amendment of the records could interfere with ongoing law enforcement proceedings and impose an undue administrative burden by requiring

investigations to be continuously reinvestigated.

(3) 5 U.S.C. 552a(e)(1) requires an agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. This requirement could foreclose investigators from acquiring or receiving information the relevance and necessity of which is not readily apparent and could only be ascertained after a complete review and evaluation of all the evidence.

(4) 5 U.S.C. 552a(e)(4)(G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual, at the individual's request, if the system of records contains a record pertaining to the individual, for gaining access to such a record, and for contesting its content. Because certain information from these systems of records is exempt from subsection (d) of the Act concerning access to records, and consequently, from subsection (f) of the Act concerning Agency rules governing access, these requirements are inapplicable to that information.

(5) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to protect the confidentiality of sources of information, to protect against the disclosure of investigative techniques and procedures, to avoid threats or reprisals against informers by subjects of investigations, and to protect against informers refusing to give full information to investigators for fear of having their identities as sources revealed.

(6) 5 U.S.C. 552a(f) requires an agency to promulgate rules for notifying individuals of Privacy Act rights granted by subsection (d) of the Act concerning access and amendment of records. Because certain information from these systems is exempt from subsection (d) of the Act, the requirements of subsection (f) of the Act are inapplicable to that information.

Dated: Washington, DC, July 10, 2007.

By Direction of the Board.

Lester A. Heltzer,

Executive Secretary.

[FR Doc. E7–13684 Filed 7–13–07; 8:45 am]

BILLING CODE 7545–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. CGD05–07–032]

RIN 1625–AA08

Special Local Regulations for Marine Events; Pamlico River, Washington, NC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary special local regulations for the ''SBIP—Fountain Powerboats Kilo Run and Super Boat Grand Prix'', a marine event to be held August 3 and August 5, 2007, on the waters of the Pamlico River, near Washington, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Pamlico River during the event.

DATES: This rule is effective from 6:30 a.m. on August 3, 2007 to 4:30 p.m. on August 5, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD05–07–032] and are available for inspection or copying at Commander, (dpi), Fifth Coast Guard District, Room 415, 431 Crawford Street, Portsmouth, Virginia 23704–5004; between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On May 4, 2007, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulations for Marine Events; Pamlico River, Washington, NC in the **Federal Register** (72 FR 25214). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

On August 3 and August 5, 2007, Super Boat International Productions will sponsor the ''SBIP—Fountain Powerboats Kilo Run and Super Boat Grand Prix'', on the Pamlico River, near Washington, North Carolina. The event will consist of approximately 40 high-speed powerboats racing in heats along a 5-mile oval course on August 3 and 5, 2007. Preliminary speed trials along a straight one-kilometer course will be conducted on August 3, 2007. Approximately 20 boats will participate in the speed trials. Approximately 100 spectator vessels will gather nearby to view the speed trials and the race. If either the speed trials or races are postponed due to weather, they will be held the next day. During the speed trials and the races, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Pamlico River, Washington, North Carolina.

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.

Although this regulation prevents traffic from transiting a portion of the Pamlico River, near Washington, North Carolina during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local commercial radio stations, and area newspapers so mariners can adjust their plans accordingly.

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 this section of the Pamlico River, Washington, North Carolina during the event.

This rule will not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be in effect for only a short period, from 6:30 a.m. to 12:30 p.m. on August 3, 2007, and from 10:30 a.m. to 4:30 p.m. on August 5, 2007. Affected waterway users may pass safely around the regulated area with approval from the patrol commander. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls 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 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 rule will 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 may 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide 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 a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation.

Under figure 2–1, paragraph (34)(h), of the Instruction, an ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are not required for this rule.

List of Subjects in 33 CFR Part 100

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

■ 2. Add a temporary section, § 100.35–T05–032 to read as follows:

§ 100.35–T05–032 Pamlico River, Washington, NC.

(a) *Regulated area*. The regulated area is established for the waters of the Pamlico River including Chocowinity Bay, from shoreline to shoreline, bounded on the south by a line running northeasterly from Camp Hardee at latitude 35°28′23″ North, longitude 076°59′23″ West, to Broad Creek Point at latitude 35°29′04″ North, longitude 076°58′44″ West, and bounded on the north by the Norfolk Southern Railroad Bridge. All coordinates reference Datum NAD 1983.

(b) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector North Carolina to act on their behalf.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector North Carolina with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the ''Fountain Super Boat Grand Prix'' under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector North Carolina.

(c) *Special local regulations:* (1) Except for participating vessels and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period*. This section will be enforced from 6:30 a.m. to 12:30 p.m. on August 3, 2007, and from 10:30 a.m. to 4:30 p.m. on August 5, 2007. If either the speed trials or the races are postponed due to weather, then the temporary special local regulations will be enforced during the same time period the next day.

Dated: July 2, 2007.

F.M. Rosa, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E7–13715 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–07–050]

RIN 1625–AA00

Safety Zone; Charlevoix Venetian Night Fireworks, Lake Michigan, Charlevoix, MI

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Michigan near Charlevoix, MI. This zone is intended to restrict vessels from a portion of Lake Michigan during the Charlevoix Venetian Night Fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 9 p.m. through 11 p.m. on July 27, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–07–050 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin, 53207 between 8:30 a.m. and 3 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chief Warrant Officer Brad Hinken, U.S. Coast Guard Sector Lake Michigan, Prevention Department, 2420 South Lincoln Memorial Drive, Milwaukee, Wisconsin, 53207, (414) 747–7154.

SUPPLEMENTARY INFORMATION:

Regulatory Information

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. The location of the fireworks display was changed after the initial permit application was received. We did not receive the new location of the fireworks display in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying this rule would be contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

On June 12, 2007, the Coast Guard established a permanent safety zone for annual events in the Captain of the Port Lake Michigan zone, including a safety for the Charlevoix Venetian Night Fireworks. 72 FR 32181, 32187. Due to an unexpected change in the location of the event, the permanent safety zone in 72 FR 32181 will not be enforced this year. This temporary safety zone with the new location replaces the permanent safety zone for this year's event.

A temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined that fireworks launches proximate to watercraft pose significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Charlevoix Venetian Night fireworks display. The fireworks display will occur between 9 p.m. and 11 p.m. on July 27, 2007. The safety zone for the fireworks will encompass all waters of Lake Michigan within a 1200-foot radius from the fireworks launch site located on a barge in position 45°19′11″ N, 085°16′18″ W. (DATUM: NAD 83). The size of this zone was determined using the National Fire Prevention Association guidelines and local knowledge of wind and currents.

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or his designated on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his designated on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

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.

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zones' activation.

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 and operators of vessels intending to transit or anchor in a portion of Lake Michigan near Charlevoix Michigan from 9 p.m. to 11 p.m. on July 27, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This rule will be in effect for only two hours for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy of the Coast Guard.

Collection of Information

This rule calls 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 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 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 rule would not result in such 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 concern an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that this safety zone and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian Tribes that have questions concerning the provisions of this Rule or options for compliance are encourage to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedure; and related management system practices) that are developed or

adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide 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 a 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. This event establishes a safety zone therefore paragraph (34)(g) of the Instruction applies.

A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are 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 amends 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. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary § 165.T09–050 is added as follows:

§ 165.T09–050 Safety zone; Charlevoix Venetian Night Fireworks, Lake Michigan, Charlevoix, MI.

(a) *Location.* The following area is a temporary safety zone: All waters of Lake Michigan within a 1200-foot radius from the fireworks launch site located on a barge in position 45°19′11″ N, 085°16′18″ W (NAD 83).

(b) *Enforcement period.* This regulation will be enforced from 9 p.m. through 11 p.m. on July 27, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

(5) Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: June 28, 2007.

Bruce C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E7–13732 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 52

[EPA–HQ–OAR–2006–0903; FRL–8439–6]

RIN 2060–AA02

Public Hearings and Submission of Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action finalizes changes to EPA's regulations specifying the public hearing requirements for State Implementation Plan (SIP) submissions, identifying the method for submission of SIPs and preliminary review of plans; and the criteria for determining the completeness of plan submission requirements to reflect the changes to the public hearing and plan submission requirements. It also updates the addresses to several Regional offices.

DATES: This rule is effective August 15, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2006–0903. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m. excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: For general questions concerning this rule, please contact Sean Lakeman, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9043. Mr. Lakeman can also be reached via electronic mail at *lakeman.sean@epa.gov*.

SUPPLEMENTARY INFORMATION: The information presented in this preamble is organized as follows:

I. Background
II. Comments and Responses
III. Final Action
IV. Statutory and Executive Order Reviews

I. Background

On March 13, 2007, (72 FR 11307) EPA published a proposed rule to change the requirements of 40 CFR 51.102, 51.103 and Appendix V to Part 51. Also, administrative changes to 40 CFR 52.02 and 52.16 to update the addresses for several of the EPA Regional offices were published.

The Clean Air Act (CAA) provides that each revision to a SIP submitted by a State must be adopted by such State ''after reasonable notice and public hearing.'' EPA's regulations on public hearings in 40 CFR 51.102(a) states ''Except as otherwise provided in paragraph (c) of this section, States must

conduct one or more public hearings on the following prior to adoption and submission to EPA.'' The completeness criteria indicate that a complete submission must include ''Evidence that public notice was given of the proposed change consistent with procedures approved by EPA, including the date of publication of such notice'' and ''Certification that public hearings(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable.'' 40 CFR part 51 Appendix V (2.1)(f) and (g). Following these public hearing requirements, states hold public hearings on any revision to a SIP. Many of these plan revisions are minor or noncontroversial in nature and no member of the public or the regulated community attends or participates in the hearing. These hearings consume both valuable time and resources. Rather than requiring a public hearing for all SIP revisions, EPA proposed to revise these regulations to allow states to determine those actions for which there may be little or no interest by the public or the regulated community and, for those actions, to provide the public the opportunity to request a public hearing. If no request for public hearing is made, then the State would have fulfilled the requirements of 40 CFR 51.102(a) and no public hearing is required to be held.

Whether or not a public hearing is held, the State is required to provide a 30-day period for the written submission of comments from the public.

Forty CFR 51.103(a) and (b) require states to submit ''five copies of the plan to the appropriate Regional Office.'' The completeness criteria in 40 CFR part 51 Appendix V(2.1)(d) provide that a complete submission must include ''indication of the changes made to the existing approved plan, where applicable.'' Since the time these regulations were promulgated, electronic access to documents has become readily available and there is no longer the same need for the State to provide multiple printed copies of the submitted plan. EPA proposed to revise these regulations to allow the Regions and the states flexibility to determine the number of printed and electronic copies of the plan submission necessary to ensure full public access to the submitted plan (including identification of the changes made) and to allow the agency to review the plan for approvability. EPA also proposed to revise 40 CFR 52.02 and 52.16, to reflect the current addresses for the Region 3, Region 4, Region 7 and Region 8 offices.

II. Comments and Responses

EPA received comments on the proposed action. The majority of commenters were in support of the proposed action and suggested minor changes to the proposed action. Following is a summary of the comments received and EPA's response to those comments.

Comment: One commenter is concerned that the proposed requirement for states to pre-schedule a public hearing and then cancel it if no one requests the hearing would ''(1) create confusion for the public, (2) require the additional expense of more legal notices to notify the public that a hearing has been cancelled, and (3) confuse and disrupt the schedule of court reporters set to cover the hearings.'' The commenter suggests that ''States only schedule a public hearing on a '*nonsubstantive or noncontroversial*'' topic if requested.'' The commenter understands that ''adoption of a minor amendment or submittal of a minor SIP revision may be delayed by a few weeks if a hearing is not 'prescheduled'' and publicized at the same time as a 30-day comment period.''

The commenter also requests that EPA (1) review and consider the Federal Highway Administration's (FHWA) approach to ''administrative modifications'' as published in the **Federal Register** on February 14, 2007 (72 FR 7224); and (2) define minor SIP revisions that would be considered ''*nonsubstantive or noncontroversial*'' and would require a 30 day comment period but no public hearing.

Response: This rule revision is designed to provide states some flexibility in the public hearing process. It is EPA's intent to help states reduce the cost of holding public hearings that are not attended by the public, not lengthen the comment period by another 30 days. While one approach is to announce the public hearing when the proposed SIP revision is made available for comment and then to cancel the hearing if not requested, another approach the State may take is the one suggested by the commenter—i.e., the State may allowing the public the opportunity to request a public hearing in the initial notice and then (if a hearing is requested) publish a new 30 day notification (using the same media as the initial 30 day notification) announcing that a public hearing will be held and providing when and where it will be held. We are modifying the regulatory text to allow for this approach.

EPA agrees with the commenter that the cancellation of a public hearing without providing some means for the public to determine if the hearing is cancelled may ''create confusion for the public.'' To avoid confusion, the State should clearly indicate in the notice how it will inform the public of whether the hearing will be held. One option is to announce the cancellation of a hearing in the same medium as the notice was originally published. Another option would be to include a web address (Uniform Resource Locator) where a cancellation notice will be posted and a phone number the public may call to determine if the public hearing has been cancelled. We are revising the regulatory text to make clear that the State must notify the public that the hearing has been cancelled.

EPA has not used the phrase ''*nonsubstantive or noncontroversial*'' in its regulation. Rather, we have simply used that term to describe the types of SIP revisions that states have identified as frequently not attracting attendance at a public hearing. We see no need to define that term since it has no regulatory meaning.

Comment: One commenter requests clarification on whether the language in 40 CFR 51.102(a) that states ''If no request for a public hearing is received during the 30-day notification period and the original notice announcing the 30-day notification period clearly states that *if no request for a public hearing is received the hearing will be cancelled,* then the public hearing may be cancelled.'' is mandatory language for public hearing notices or permissive language.

Response: The intent of this language is to allow states the flexibility in the public hearing process. The State may choose whether it wishes to hold a public hearing or whether it wishes to hold a public hearing only if so requested. If it chooses to hold a public hearing only if requested, then the State should use the language in italics above (or substantially similar language) to convey that the hearing will be cancelled if no one requests a hearing.

Comment: One commenter is concerned that ''while many of the documents can be provided electronically, there may be occasions where an exhibit or other document may not lend itself to an electronic format.'' The commenter requests that a provision be added to the rule that will allow a State to submit five hard copies of any portion of the submittal that cannot be submitted electronically and, for the remainder of the submittal,

submit two hard copies and an electronic copy.

Response: We believe that the rule already provides this flexibility. The rule as written allows for the State to submit either ''five hard copies or at least two hard copies with an electronic version of the hard copy.'' The rule also allows the State in conjunction with the Regional Office (in the statement ''unless otherwise agreed to by the State and Regional Office'') to resolve unique situations as they arise.

Comment: One commenter recommends the rule include a requirement for notifying the public when a public hearing will be cancelled and how the public will be notified of the cancellation.

Response: EPA agrees with commenter and has revised the rule to address this concern.

Comment: Several commenters are not sure how the revised 40 CFR 51.102(a) is supposed to work and state ''Under both the existing and proposed rule, the comment period consists of 30-days, with the hearing held on the 30th day. As proposed, whether or not the State would actually hold a hearing would not be known by the State until the actual day of the hearing, day 30. How will the public know whether or not a hearing is being held? How would the State notify the public? The public would have no advance notice in which to plan to attend or not and the State would have no time in which to inform the public, whether through the current requirement for a newspaper advertisement, or through other electronic means.'' Commenters recommend revising section (a) to read ''Except as otherwise provided in paragraphs (c) and (d) of this section and within the 30-day notification period as required by paragraph (e) of this section, States must provide notice, provide the opportunity to submit written comments and allow the public the opportunity to request a public hearing.'' A new section (d) was suggested to read ''No hearing will be required for any plan change if the change is identified by the State to consist of minor or administrative revisions that are likely to be of little public interest. As required in paragraph (a) of the proposal, the State must provide the public the opportunity to request a public hearing in the notice announcing the 30-day notification period. If the State provides the public the opportunity to request a public hearing and a request is received, the State must provide a new 30-day notification period of the hearing in accordance with paragraph (e) and conduct the hearing at the end of the notification period. If no request for a public hearing is received during the initial 30-day notification period and the original notice announcing the 30-day notification period clearly states that if no request for a public hearing is received there will be no hearing, then no public hearing will be conducted.''

Response: This rule revision is designed to provide states flexibility in the public hearing process. Under this rule states have several options they can employ in the public hearing process. Here are a few examples:

1. Choose to hold a public hearing and provide the public with the meeting logistics (when and where) in the 30-day notification. States may choose to use this option because they believe the revision(s) will draw public interest and therefore plan to hold a public hearing.

2. Provide the public the opportunity to request a hearing. States may choose to use this option for revisions they believe will not elicit public interest. For example, in the initial notice, the State would include a scheduled public hearing 35 days from the date of the notice and inform the public that if a hearing is not requested by the end of the 30th day, the public hearing will be cancelled. If a hearing is not requested the State would post on the 31st day a cancellation notice in the manner announced at the time of the initial notice (e.g., in a newspaper, the State Register, or on a Web site notifying the public that the hearing was cancelled).

3. Publish a 30-day notice to inform the public of revisions to the SIP and requiring that any request for a public hearing must be submitted within 30-days. If a public hearing is requested, the State would publish a new notice providing 30-days notice of the time and place of the public hearing.

We are not adopting the specific language suggested by the commenter. We believe the regulatory language would allow the State to elect to use any of the options noted above.

EPA is not creating an exception to the public hearing requirement for *''minor or administrative revisions''* in this rule. Such a line-drawing exercise is difficult, as some things that may appear minor or administrative to one person may have more significant implications than initially believed or may not be minor or insignificant to another person. Providing the opportunity for a public hearing for all changes will allow the public (rather than the State) to decide which revisions are minor and administrative and on which members of the public do not need a public hearing and which revisions members of the public believe may have more significance and for which they need a public forum with the State Agency.

Comment: Several commenters objected to the revised language in 40 CFR 51.103(b) regarding requests for preliminary review of plans by EPA. The commenter states: ''Currently, we make requests for preliminary review by email with a link to the State Web site where the notice and proposal are located. Requiring additional paper copies goes directly against the intent of this regulatory action. While we understand the need to maintain more formal documentation for the official submittal in paragraph (a), the same requirements for paragraph (b) do not make sense for an optional, voluntary action.'' and recommends revising the language to include ''or an entirely electronic submittal.''

Response: As an initial matter, the current rule requires that requests be accompanied by five hard copies . Thus, the commenter incorrectly indicates that the EPA's proposed rule is adding constraints. To the contrary, the regulatory language would provide flexibility by allowing requests to ''be accompanied by five hard copies or at least two hard copies with an electronic version of the hard copy'' and providing latitude with the clause ''unless otherwise agreed to by the State and Regional Office.'' This provision would allow the State and the Regional Office to agree to an entirely electronic submittal, where appropriate, but retains the requirement for hard copy submissions where no such agreement is reached.

Comment: Several commenters requested that Section 2.1(d) of Appendix V of Part 51—Criteria for Determining the Completeness of Plan Submissions, be revised because ''Computer terminology comes and goes, not all systems are entirely compatible, and whatever is specified in the CFR now will likely need to be revisited.'' Commenters recommended the language to read ''If the State submits an electronic copy, it must be an exact duplicate of the hard copy, including signed documents, with changes indicated. The specific electronic formats to be used are to be agreed upon by the State and the Regional Office. Files need to be submitted in manageable amounts (e.g., a file for each section or chapter, depending on size, and separate files for each distinct document) as agreed to by the State and Regional Office.''

Response: EPA agrees with the commenters that computer technology will continue to change, however, revising the language is not needed. EPA believes it has provided enough

latitude with the clause ''unless otherwise agreed to by the State and Regional Office'' to address future changes in media.

Comment: Several commenters also encourage EPA to provide the same flexibility for 111(d)/129 plans.

Response: The regulatory provisions addressed in the proposed rule concern SIP submissions and thus are not the appropriate place to address 111(d)/129 plans. EPA will take the commenter's request under advisement and may consider similar treatment for 111(d)/129 plans may be considered at a later time.

Comment: The commenter requests ''that the requirements for reasonable public notice, as defined in 40 CFR 51.102(d), be strengthened to ensure that the public, and in particular the 'regulated community,' are made aware of the proposed plan or plan revision and associated opportunity to submit comments and/or request a public hearing.'' The commenter believes ''that when a proposed plan or plan revision involves a control measure that the 'regulated community' is responsible for implementing, states should be required to explicitly communicate with the affected regulated community to ensure that they are aware of the proposed plan or plan revision and the associated opportunity to submit comments and/or request a public hearing.'' Also, the commenter states that ''the 'prominent advertisement' requirement has typically been met by placing a notice of the public hearing in the State register. Such notices may satisfy the State's requirements for public notice, but in our view they fall far short of reasonable public notice if the proposed plan or plan revision involves a control measure that a regulated community is responsible for implementing.'' The commenter wants the following statement added to 40 CFR 51.102(d) ''Notification directly to any regulated community responsible for implementing a control measure included in the proposed plan or plan revision.''

Response: While we agree that ensuring that the regulated community is aware of planning obligations that may affect them, the recommendation is not practicable. Moreover, our experience is that the states attempt to diligently work with the regulated community (and all stakeholders) when developing SIPs. As and initial matter, the recommendation is not practical because it is unclear. Would it impose a burden on the State to contact and provide direct notification to any source that may potentially be affected by regulation? If so, we think the burden would be impossible for the State to meet in many circumstances. Some source categories could include 100's or 1000's of sources and the State would not be able to identify all such sources. Additionally, there may be issues of whom the State is required to notify. For example, if a State made changes to its inspection and maintenance program, would it be obligated to provide direct notification to every owner of a car registered on the State? Also, there may be countless service stations that perform these tests. Would the State be required to maintain a list of every such station? As noted, we believe States generally work with the regulated community in developing programs that may affect them. Typically, such work is a necessary component of developing control strategies since States must understand how sources operate, including the types of equipment they use, and what are the types and amount of emissions. We continue to encourage States to improve outreach efforts in developing SIPs and we believe the use of the internet has provided greater public access to information.

Comment: One commenter requests that EPA change the requirement for two hard copies to one hard copy.

Response: We believe a change is unnecessary because the rule provides flexibility for the State and Regional Office to agree on one hard copy and an electronic copy, if they determine that is appropriate.

III. Final Action

EPA is finalizing the revisions as stated in the proposed rule and has added a provision to capture the cancellation of public hearings, in order to reduce the possibility of confusion regarding whether a public hearing will be held. The provision will require States to include in the initial notice announcing the 30 day notification period, the method they will use to notify the public of whether the hearing will be held and to include a phone number where the public can call to determine if the public hearing has been cancelled.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This action modifies the public hearing requirements for SIPs by clarifying that public hearings need only be held when requested by the public rather than automatically and provides a less costly alternative to the pre-existing requirement to submit five printed copies of each SIP revision. The present action does not establish any new information collection burden. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards. (See 13 CFR 121.); (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. This action

modifies the public hearing requirements that apply to states for purposes of submitting SIPs. It clarifies that public hearings need only be held when requested by the public rather than automatically and provides a less costly alternative to the pre-existing requirement to submit five printed copies of each SIP revision. After considering the economic impacts of today's action on small entities, I certify that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation to 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.

Today's action does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any one year by either State, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. Also, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and therefore, is not subject to the requirements of sections 203. This action modifies the public hearing requirements for SIPs by clarifying that public hearings need only be held when requested by the public rather than automatically and provides a less costly alternative to the pre-existing requirement to submit five printed copies of each SIP revision.

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.''

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action modifies the public hearing requirements for SIPs by clarifying that public hearings need only be held when requested by the public rather than automatically and provides a less costly alternative to the pre-existing requirement to submit five printed copies of each SIP revision. Thus, Executive Order 13132 does not apply to this 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 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This action does not have ''Tribal implications'' as specified in Executive Order 13175. This action modifies the public hearing requirements for SIPs by clarifying that public hearings need only be held when requested by the public rather than automatically and provides a less costly alternative to the pre-existing requirement to submit five printed copies of each SIP revision. The Clean Air Act and the Tribal Authority Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this rule.

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

Executive Order 13045: ''Protection of Children From Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This action is not subject to Executive Order 13045 because it is not economically significant as defined in E.O. 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. This action modifies the public hearing requirements for SIPs by clarifying that public hearings need only be held when requested by the public rather than automatically and provides a less costly alternative to the pre-existing requirement to submit five printed copies of each SIP revision.

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

This action is not subject to Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

As noted in the proposed rule, Section 12(d) of the National

Technology Transfer Advancement Act of 1995 (NTTAA), Pub. L. No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this final rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This action modifies the public hearing requirements for SIPs by clarifying that public hearings need only be held when requested by the public rather than automatically and provides a less costly alternative to the pre-existing requirement to submit five printed copies of each SIP revision.

K. Congressional Review Act

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. The EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective August 15, 2007.

L. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the District of Columbia Circuit by September 14, 2007. 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 must 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 CAA Section 307(b)(2).

List of Subjects in 40 CFR Parts 51 and 52

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Transportation, Volatile organic compounds.

Dated: July 10, 2007.

Stephen L. Johnson,

Administrator.

■ Accordingly, 40 CFR parts 51 and 52 are amended as follows:

PART 51—[AMENDED]

■ 1. The authority citation for part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

■ 2. Section 51.102 is amended by revising paragraphs (a) introductory text and (f) to read as follows:

§ 51.102 Public hearings.

(a) Except as otherwise provided in paragraph (c) of this section and within the 30 day notification period as required by paragraph (d) of this section, States must provide notice, provide the opportunity to submit written comments and allow the public the opportunity to request a public hearing. The State must hold a public hearing or provide the public the opportunity to request a public hearing. The notice announcing the 30 day notification period must include the date, place and time of the public hearing. If the State provides the public the opportunity to request a public hearing and a request is received the State must hold the scheduled hearing or schedule a public hearing (as required by paragraph (d) of this section). The State may cancel the public hearing through a method it identifies if no request for a public hearing is received during the 30 day notification period and the original notice announcing the 30 day notification period clearly states: *If no request for a public hearing is received the hearing will be cancelled; identifies the method and time for announcing that the hearing has been cancelled; and provides a contact phone number for the public to call to find out if the hearing has been cancelled.* These requirements apply for adoption and submission to EPA of:

* * * * *

(f) The State must submit with the plan, revision, or schedule, a certification that the requirements in paragraph (a) and (d) of this section were met. Such certification will include the date and place of any public hearing(s) held or that no public hearing was requested during the 30 day notification period.

* * * * *

■ 3. Section 51.103 is revised to read as follows:

§ 51.103 Submission of plans, preliminary review of plans.

(a) The State makes an official plan submission to EPA only when the submission conforms to the requirements of appendix V to this part, and the State delivers five hard copies or at least two hard copies with an electronic version of the hard copy (unless otherwise agreed to by the State and Regional Office) of the plan to the appropriate Regional Office, with a letter giving notice of such action. If the State submits an electronic copy, it must be an exact duplicate of the hard copy.

(b) Upon request of a State, the Administrator will provide preliminary review of a plan or portion thereof submitted in advance of the date such plan is due. Such requests must be made in writing to the appropriate Regional Office, must indicate changes (such as, redline/strikethrough) to the existing approved plan, where applicable and must be accompanied by five hard copies or at least two hard copies with an electronic version of the hard copy (unless otherwise agreed to by the State and Regional Office).

Requests for preliminary review do not relieve a State of the responsibility of adopting and submitting plans in accordance with prescribed due dates.

■ 4. Appendix V to Part 51 is amended by revising paragraphs (d) and (g) under Section 2.1 to read as follows:

Appendix V of Part 51—Criteria for Determining the Completeness of Plan Submissions

* * * * *

2.1. * * *

(d) A copy of the actual regulation, or document submitted for approval and incorporation by reference into the plan, including indication of the changes made (*such as, redline/strikethrough*) to the existing approved plan, where applicable. The submittal shall be a copy of the official State regulation/document signed, stamped and dated by the appropriate State official indicating that it is fully enforceable by the State. The effective date of the regulation/document shall, whenever possible, be indicated in the document itself. *If the State submits an electronic copy, it must be an exact duplicate of the hard copy with changes indicated, signed documents need to be in portable document format, rules need to be in text format and files need to be submitted in manageable amounts (e.g., a file for each section or chapter, depending on size, and separate files for each distinct document) unless otherwise agreed to by the State and Regional Office.*

* * * * *

(g) Certification that public hearing(s) were held in accordance with the information provided in the public notice and the State's laws and constitution, if applicable and consistent with the public hearing requirements in 40 CFR 51.102.

* * * * *

PART 52—[AMENDED]

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

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

■ 6. Section 52.02 is amended by revising paragraphs (d)(2)(iii), (d)(2)(iv), (d)(2)(vii), and (d)(2)(viii) to read as follows:

§ 52.02 Introduction.

* * * * *

(d) * * *

(2) * * *

(iii) Delaware, District of Columbia, Pennsylvania, Maryland, Virginia, and West Virginia. Environmental Protection Agency, Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029.

(iv) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. Environmental Protection Agency, Region 4, 61 Forsyth Street, Atlanta, Georgia 30303.

* * * * *

(vii) Iowa, Kansas, Missouri, and Nebraska. Environmental Protection Agency, Region 7, 901 North 5th Street, Kansas City, KS 66101.

(viii) Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. Environmental Protection Agency, Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129.

* * * * *

7. Section 52.16 is amended by revising paragraphs (b)(3), (b)(4), (b)(7) and (b)(8) to read as follows:

§ 52.16 Submission to Administrator.

* * * * *

(b) * * *

(3) Delaware, District of Columbia, Pennsylvania, Maryland, Virginia, and West Virginia. EPA Region 3, 1650 Arch Street, Philadelphia, PA 19103–2029.

(4) Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee. EPA Region 4, 61 Forsyth Street, Atlanta, Georgia 30303.

* * * * *

(7) Iowa, Kansas, Missouri, and Nebraska. EPA Region 7, 901 North 5th Street, Kansas City, KS 66101.

(8) Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming. EPA, Region 8, 1595 Wynkoop Street, Denver, CO 80202–1129.

* * * * *

[FR Doc. E7–13716 Filed 7–13–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[RM No. 11355; FCC 07–103]

Cellular Radiotelephone Service Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission denies a petition for rulemaking seeking a two-year extension, until February 18, 2010, of the requirement that all cellular licensees provide analog service to subscribers and roamers whose equipment conforms to the Advanced Mobile Phone Service standard. It also adopts related measures to ensure the continuity of wireless coverage to affected consumers following sunset of the analog service requirement and to ensure that interested parties are fully informed of the sunset.

DATES: Effective June 15, 2007, except for the implementation of new reporting and recordkeeping requirements imposed by this action pending approval by the Office of Management and Budget.

FOR FURTHER INFORMATION CONTACT: Richard Arsenault, Wireless Telecommunications Bureau at (202) 418–0920, TTY (202) 418–7233, or via the Internet at *Richard.Arsenault@fcc.gov;* for additional information concerning the information collections contained in this document, contact Judith Boley-Herman at (202) 418–0214, or via the Internet at *Judith.B-Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Memorandum Opinion and Order,* in RM No. 11355; FCC 07–103, adopted May 25, 2007, and released June 15, 2007. The complete text of this document is available for inspection and copying during normal business hours in the FCC's Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC. Alternative formats (Braille, large print, electronic files, audio format) are available for people with disabilities by sending an e-mail to *FCC504@fcc.gov* or, calling the Consumer and Government Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). The Order also may be downloaded from the Commission's Web site at *http://www.fcc.gov/.*

1. In this *Memorandum Opinion and Order* the Commission denies a Petition for Rulemaking filed by the Alarm Industry Communications Committee (AICC) and ADT Security Services, Inc. (ADT), seeking a two-year extension, until February 18, 2010, of the requirement that all cellular licensees provide analog service to subscribers and roamers whose equipment conforms to the Advanced Mobile Phone Service (AMPS) standard. This requirement will sunset on February 18, 2008 (the ''analog sunset date''), but cellular licensees may continue to provide AMPS-compatible service after that date. The Commission finds that the alarm industry has sufficient time and equipment to replace all analog alarm radios that are used as a primary communications path before the analog sunset date and that the public interest would not be served by extending the analog service requirement beyond February 18, 2008. The overall effect of

this action is to further the public interest by maintaining, and ensuring a smooth transition to, the scheduled analog sunset date for the public. The Commission received and considered over 70 comments on the Petition for Rulemaking in this proceeding.

2. The Commission also takes three related actions to ensure the continuity of wireless coverage to affected consumers following sunset of the analog service requirement and to ensure that interested parties are fully informed of the sunset. First, it requires all cellular licensees to notify any remaining analog service subscribers of the analog sunset. At a minimum, licensees must notify each analog-only subscriber individually of their intention to discontinue analog service at least four months before such discontinuance, and a second time, at least 30 days before such discontinuance. Second, in order to reduce the financial, administrative, and technical burdens that would be associated with filing a revised Cellular Geographic Service Area (CGSA) determination with the Commission when a carrier decommissions analog service in a CGSA, it permits licensees, in lieu of making a revised CGSA showing, to certify that the discontinuance of AMPS service will not result in any loss of wireless coverage throughout the carrier's CGSA. If a licensee cannot so certify, it must file a revised determination, and any area no longer covered by a CGSA would be forfeited and available for immediate reassignment by the Commission under its cellular unserved area rules. Third, it directs the Commission's Consumer and Governmental Affairs Bureau, in conjunction with the Wireless Telecommunications Bureau, to initiate a public outreach campaign to ensure that consumers, public safety groups, and other interested parties are aware of, and prepared for, the analog sunset in February 2008.

I. Procedural Matters

A. Paperwork Reduction Act

3. This document contains new information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Specifically, it requires all cellular radiotelephone service licensees to notify each analog-only subscriber individually of their intention to discontinue analog service at least four months before such discontinuance (by a billing insert, for example), and again, at least 30 days before such discontinuance (by separate letter or direct customer contact, for example). The Commission, as part of its continuing efforts to reduce paperwork burdens, invites the general public, the Office of Management and Budget (OMB) and other Federal agencies to comment on the information collection requirements contained in this *Memorandum Opinion and Order,* as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due September 14, 2007. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden 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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we seek specific comment on how we might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' We do not believe that the information collection burdens herein will affect a significant number of small businesses as defined in the SBPRA.

OMB Control Number: 3060–xxxx.

Title: Sunset of the Cellular Radiotelephone Service Analog Service Requirement and Related Matters.

Type of Review: New collection.

Respondents: Business or other for-profit.

Number of Respondents: 452.

Estimated Time Per Response: 12 hours.

Frequency of Response: Twice.

Obligation to Respond: Mandatory.

Total Annual Burden: 10,848 hours.

Total Annual Costs: $None.

Privacy Act Impact Assessment: None.

Nature and Extent of Confidentiality: None.

Needs and Uses: The third-party consumer notices will ensure that remaining analog-only cellular service subscribers are adequately notified of the potential loss of analog service and the need to make alternative service arrangements.

B. Report to Congress

4. The Commission will send a copy of the *Memorandum Opinion and Order* in a report to be sent to Congress and the Congressional Budget Office pursuant to the Congressional Review Act.

C. Ordering Clauses

Pursuant to sections 1, 2, 4(i), 4(j) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, 154(i), 154(j) and 309, and §§ 1.403 and 22.901 of the Commission's rules, the Petition for Rulemaking filed by the Alarm Industry Communications Committee and ADT Security Services, Inc. on November 30, 2006, *is denied*.

Pursuant to sections 4(i), 201, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 201, and 303(r); and section 5(d) of the Administrative Procedure Act, 5 U.S.C. 554(e), each cellular radiotelephone service licensee must notify each analog-only subscriber individually of their intention to discontinue Advanced Mobile Phone Service (AMPS) compatible analog service at least four months before such discontinuance, and a second time, at least 30 days before such discontinuance.

Pursuant to sections 1, 4(i), and 4(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), and 154(j), and sections 0.131, 0.201 and 0.331 of the Commission's rules, the Consumer and Governmental Affairs Bureau, in conjunction with the Wireless Telecommunications Bureau, shall commence a public outreach campaign to ensure public awareness of the sunset of the analog service requirement.

List of Subjects in 47 CFR Part 22

Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–13727 Filed 7–13–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01]

RIN 0648–XB43

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of Pacific ocean perch in the West Yakutat District of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 2007, through 2400 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (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 50 CFR part 679.

The 2007 TAC of Pacific ocean perch in the West Yakutat District of the GOA is 1,140 metric tons (mt) as established by the 2007 and 2008 harvest specifications for groundfish of the GOA (72 FR 9676, March 5, 2007).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2007 TAC of Pacific ocean perch in the West Yakutat District of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,090 mt, and is setting aside the remaining 50 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

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 impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 10, 2007.

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 § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 11, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–3455 Filed 7–11–07; 2:57 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01]

RIN 0648–XB45

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch and Rougheye Rockfish in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in a specified area of the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to limit incidental catch of rougheye rockfish and prevent overfishing of rougheye rockfish in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 11, 2007, through 2400 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management 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 50 CFR part 679.

The Magnuson-Stevens Fishery Conservation and Management Act requires that conservation and management measures prevent overfishing. The 2007 rougheye rockfish overfishing limit in the BSAI is 269 metric tons (mt) and the acceptable biological catch (ABC) is 202 mt as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007). NMFS closed directed fishing for rougheye rockfish in Table 9 of the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007).

Substantial trawl fishing effort will be directed at remaining amounts of Pacific ocean perch in the Western Aleutian District of the BSAI. This fishery has significant incidental catch of rougheye rockfish in certain areas. Data from the groundfish observer program indicates that high incidental catch rates of rougheye rockfish are experienced in the area delineated by straight lines connecting the coordinates in the order listed:

East Buldir Island	52° 40.00′ N.	176° 00.00′ E.
	52° 30.00′ N.	176° 00.00′ E.
	52° 30.00′ N.	176° 40.00′ E.
	52° 40.00′ N.	176° 40.00′ E.
	.....	.....

If the Pacific ocean perch fishery were allowed to continue in this area beyond July 11, 2007, the ABC for rougheye rockfish would be exceeded.

The Administrator has determined, in accordance with § 679.20(d)(3) that prohibiting directed fishing for Pacific ocean perch in the area delineated by straight lines connecting the coordinates in the order listed:

East Buldir Island	52° 40.00′ N.	176° 00.00′ E.
	52° 30.00′ N.	176° 00.00′ E.
	52° 30.00′ N.	176° 40.00′ E.
	52° 40.00′ N.	176° 40.00′ E.
	.....	.....

is necessary to prevent overfishing of the rougheye rockfish, and is the least restrictive measure to achieve that purpose. Without this closure,

significant incidental catch of rougheye rockfish would occur.

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)(3)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch in the specified area of the Western Aleutian District of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 9, 2007.

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 § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 11, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–3457 Filed 7–11–07; 2:57 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01]

RIN 0648–XB41

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 Pacific ocean perch total allowable catch (TAC) in the Central Aleutian District of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 10, 2007, through 2400 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management 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 50 CFR part 679.

The 2007 Pacific ocean perch TAC in the Central Aleutian District of the BSAI is 4,672 metric tons (mt) as established by the 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS, has determined that the 2007 Pacific ocean perch TAC in the Central Aleutian District of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,972 mt, and is setting aside the remaining 700 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

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 impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific ocean perch in the Central Aleutian District of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of July 9, 2007.

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 § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: July 10, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–3432 Filed 7–10–07; 3:02 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 135
Monday, July 16, 2007

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28688; Directorate Identifier 2005–SW–21–AD]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 430 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes adopting a new airworthiness directive (AD) for Bell Helicopter Textron Canada (BHTC) Model 430 helicopters. This proposal would require replacing a certain servo actuator-to-actuator support attachment bolt (bolt) with an airworthy bolt. This proposal would also require establishing a retirement life for certain bolts and recording the retirement life on a component history card or equivalent record. This proposal is prompted by further evaluation of certain fatigue-critical parts, resulting in establishing a life limit of 5000 hours for the affected bolts. The actions specified by this proposed AD are intended to prevent fatigue failure of the bolt and subsequent loss of control of the helicopter.

DATES: Comments must be received on or before September 14, 2007.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically;
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically;
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590;
- Fax: 202–493–2251, or
- Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

You may get the service information identified in this proposed AD from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527.

You may examine the comments to this proposed AD in the AD docket on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Sharon Miles, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas 76193–0111, telephone (817) 222–5122, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written data, views, or arguments regarding this proposed AD. Send your comments to the address listed under the caption **ADDRESSES.** Include the docket number ''FAA–2007–28688, Directorate Identifier 2005–SW–21–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed rulemaking. Using the search function of our docket Web site, you can find and read the comments to any of our dockets, including the name of the individual who sent or signed the comment. You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the docket that contains the proposed AD, any comments, and other information in person at the Docket Management System (DMS) Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is located at the West Building Ground Floor, Room WL–140 at 1200 New Jersey Avenue, SE., Washington, DC. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

Transport Canada, the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on BHTC Model 430 helicopters, serial numbers 49001 through 49106. Transport Canada advises of the need to establish a new airworthiness life limitation of 5000 hours for the three servo actuator support attachment bolts and to replace the three affected bolts.

Bell Helicopter Textron has issued Alert Service Bulletin No. 430–05–33, dated February 16, 2005 (ASB). The ASB introduces a retirement life of 5000 hours for the bolts. The ASB states that since these bolts have not been listed in the Helicopter Component Replace record, it is difficult to determine with accuracy the actual number of hours accumulated on fielded bolts. Also, the ASB states that Bell has elected to replace all the fielded bolts, part number (P/N) 50–047C8–31. Transport Canada classified this ASB as mandatory and issued AD No. CF–2005–09, dated April 14, 2005, to ensure the continued airworthiness of these helicopters in Canada.

This helicopter model is manufactured in Canada and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to the applicable bilateral agreement, Transport Canada has kept us informed of the situation described above. The upper three bolts of the servo attaching to the collective and cyclic levers have a retirement life of 5000 hours. However, three identical bolts at the lower end of the servos attaching to the actuator support do not have an established life limit. These three bolts may be subject to premature failure due to fatigue causing failure of the actuators and subsequent loss of control of the helicopter. We have examined the findings of Transport

Canada, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

This previously described unsafe condition is likely to exist or develop on other helicopters of the same type design registered in the United States. Further evaluation of certain fatigue-critical parts resulted in establishing a life limit of 5000 hours for the affected bolts which is intended to prevent fatigue failure of the bolt and subsequent loss of control of the helicopter. Therefore, the proposed AD would require the following:

- Within 150 hours time-in-service (TIS), replace all three bolts, P/N 50–047C8–31, with airworthy, zero-time bolts, P/N 50–047C8–31.
- Revise the Airworthiness Limitations section of the maintenance manual by establishing a retirement life of 5000 hours TIS for each bolt.
- Record a 5000-hour TIS life limit for each bolt on the component history card or equivalent record.

We estimate that this proposed AD would affect 54 helicopters of U.S. registry. The proposed actions would take about 2 work hours per helicopter to replace 3 bolts at an average labor rate of $80 per work hour. Required parts would cost about $243 for each bolt. Based on these figures, we estimate the total cost impact of the proposed AD on U.S. operators to be $48,006, assuming that the recordkeeping cost would be negligible.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. Additionally, this proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. 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.

We prepared a draft economic evaluation of the estimated costs to comply with this proposed AD. See the DMS to examine the draft economic evaluation.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron Canada: Docket No. FAA–2007–28688; Directorate Identifier 2005–SW–21–AD.

Applicability

Model 430 helicopters, serial numbers 49001 through 49106, with a servo actuator-to-actuator support attachment bolt (bolt), part number (P/N) 50–047C8–31, installed, which attaches the lower two cyclic servo actuators and the lower collective servo actuator to the three lower actuator supports, certificated in any category.

Compliance

Required as indicated, unless accomplished previously.

To prevent fatigue failure of the bolt and subsequent loss of control of the helicopter, do the following:

(a) Within 150 hours time-in-service (TIS), replace all three affected bolts, as depicted for one of these bolts in Figure 1 of this AD, with airworthy, zero-time bolts, P/N 50–047C8–31.

BILLING CODE 4910–13–P

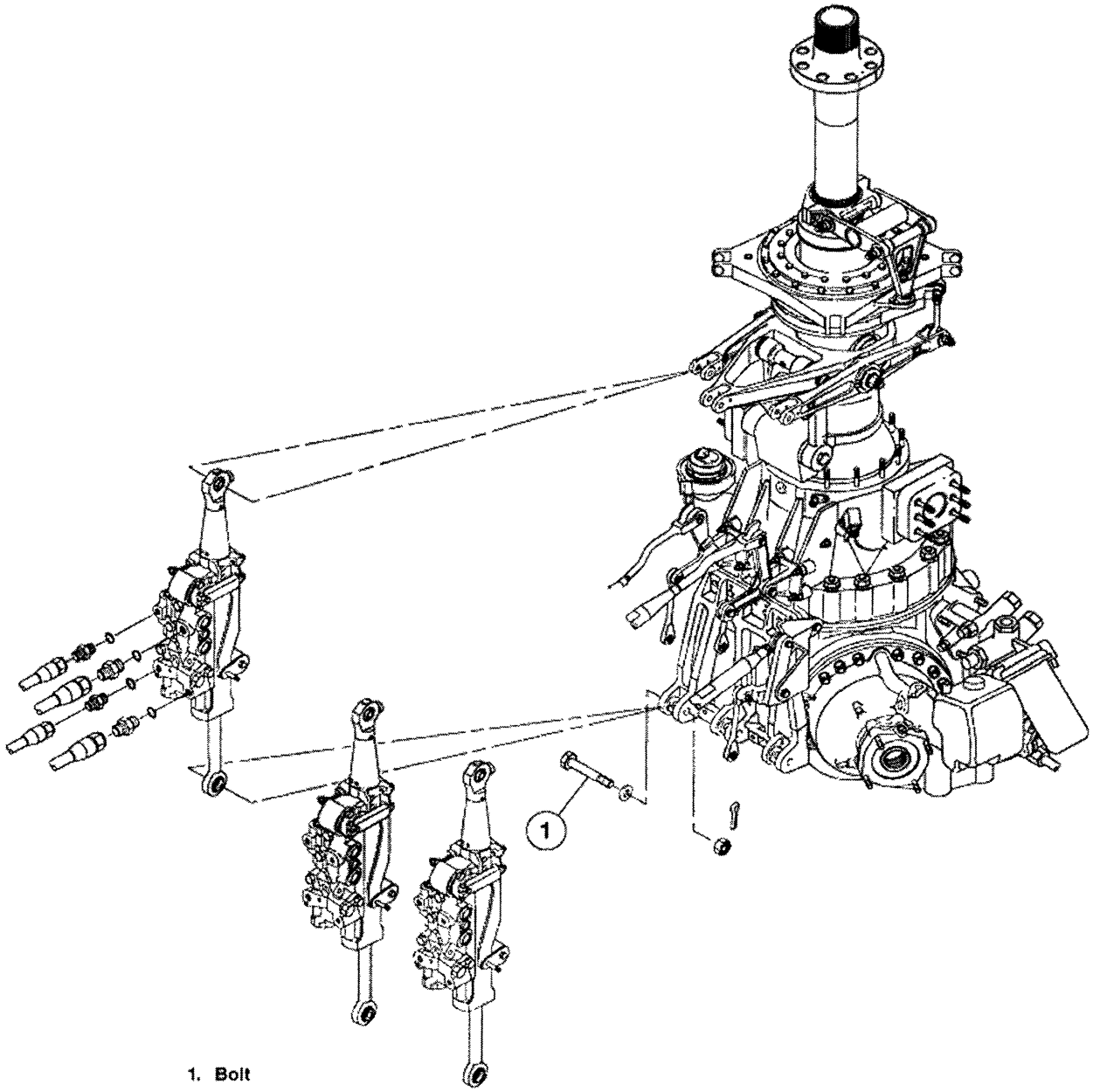

Figure 1

Note: Only the right servo lower attach bolt (1) is shown. The collective and left cyclic servo lower attach bolts are also to be replaced. (This AD does not apply to the same part-numbered bolts at the upper end of each servo.)

(b) This AD revises the Airworthiness Limitations section of the maintenance manual by establishing a retirement life of 5000 hours TIS for each bolt.

(c) Record a 5000-hour TIS life limit for each bolt on the component history card or equivalent record.

(d) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Safety Management Group, FAA, ATTN: Sharon Miles, Aviation Safety Engineer, Rotorcraft Directorate, Regulations and Guidance Group, Fort Worth, Texas

76193–0111, telephone (817) 222–5122, fax (817) 222–5961 for information about previously approved alternative methods of compliance.

Note: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF 2005–09, dated April 14, 2005.

Issued in Fort Worth, Texas, on July 5, 2007.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 07–3434 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–13–C

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–27975; Directorate Identifier 2007–CE–041–AD]

RIN 2120–AA64

Airworthiness Directives; PIAGGIO AERO INDUSTRIES S.p.A. Model P–180 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Several aircraft, at the factory, presented some debris in the hydraulic fluid of the steering system. Investigations revealed that some components of the steering system can be responsible for the fluid contamination because of an initial pollution on their manufacturing.

If not corrected, a contaminated fluid could cause malfunction and a possible jamming of the steering system.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES:

We must receive comments on this proposed AD by August 15, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–27975; Directorate Identifier 2007–CE–041–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued Emergency Airworthiness Directive EAD No: 2007–0147–E, dated May 22, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Several aircraft, at the factory, presented some debris in the hydraulic fluid of the steering system. Investigations revealed that some components of the steering system can be responsible for the fluid contamination because of an initial pollution on their manufacturing.

If not corrected, a contaminated fluid could cause malfunction and a possible jamming of the steering system.

The superseded Airworthiness Directive (AD) 2007–0088–E was previously issued to address the unsafe condition.

The present Airworthiness Directive expands applicability of this AD to all P.180 'Avanti' series aircraft and the list of defective components as listed in revision 1 of Piaggio Aero Industries Mandatory Service Bulletin No 80–0236. This AD also requires Temporary Changes to the respective Airplane Flight Manual (AFM) and Aircraft Maintenance Manual (AMM) and introduces procedures to recondition defective units.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Piaggio Aero Industries S.p.A. has issued Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of the Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with this State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This Proposed AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those

in the MCAI in order to follow FAA policies. Any such differences are highlighted in a NOTE within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 63 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour.

Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $5,040, or $80 per product.

In addition, we estimate that any necessary follow-on actions would take about 14 work-hours, for a cost of $1,120 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these costs. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 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. The FAA amends § 39.13 by adding the following new AD:

PIAGGIO AERO INDUSTRIES S.p.A.: Docket No. FAA–2007–27975; Directorate Identifier 2007–CE–041–AD.

Comments Due Date

(a) We must receive comments by August 15, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model P–180 airplanes, all serial numbers, certificated in any category.

Subject

(d) Air Transport Association of America (ATA) Code 32: Landing Gear.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Several aircraft, at the factory, presented some debris in the hydraulic fluid of the steering system. Investigations revealed that some components of the steering system can be responsible for the fluid contamination because of an initial pollution on their manufacturing.

If not corrected, a contaminated fluid could cause malfunction and a possible jamming of the steering system.

The superseded Airworthiness Directive (AD) 2007–0088–E was previously issued to address the unsafe condition.

The present Airworthiness Directive expands applicability of this AD to all P.180 'Avanti' series aircraft and the list of defective components as listed in revision 1 of Piaggio Aero Industries Mandatory Service Bulletin No 80–0236. This AD also requires Temporary Changes to the respective Airplane Flight Manual (AFM) and Aircraft Maintenance Manual (AMM) and introduces procedures to recondition defective units.

Actions and Compliance

(f) Unless already done, do the following actions:

(1) Within the next 30 hours time-in-service (TIS) after the effective date of this AD or 30 days after the effective date of this AD, whichever occurs first, check the identification of the steering actuator and the steering manifold installed on the airplane following Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do this action. Make an entry in the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(2) If any steering actuator listed in annex 7.1 or manifold listed in annex 7.2 of Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007, is found in the check per paragraph (f)(1) of this AD:

(i) Before further flight after the check per paragraph (f)(1) of this AD, insert Temporary Change 3, issued March 15, 2007, into the LIMITATIONS section of Report 6591 (the airplane flight manual (AFM)) for P180 Avanti Aircraft or Temporary Change 2, issued March 15, 2007, into the LIMITATIONS section of Report 180–MAN–0010–01100 (the AFM) for Avanti II aircraft. The owner/operator holding at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7) may do this action. Make an entry in the aircraft records showing compliance with this portion of the AD following section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

(ii) Within the next 600 hours TIS after the effective date of this AD or 12 months after the effective date of this AD, whichever occurs first, replace the nose landing gear (NLG) following Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007.

(iii) After replacement of the NLG per paragraph (f)(2)(ii) of this AD, remove the steering system temporary limitations from the LIMITATIONS section of the AFM.

(3) Before further flight after accomplishment of the check specified in paragraph (f)(1) of this AD, do not install any steering actuator listed in annex 7.1 or manifold listed in annex 7.2 of Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007.

Note 1: We encourage you to incorporate Temporary Revision 1 into the maintenance program (aircraft maintenance manual

(AMM) P.180 Avanti report 9066) or Temporary Revision 11 into the maintenance program (AMM P.180 Avanti II report 180–MAN–0200–01105). The temporary revisions require confirmation that the steering manifold and steering actuator are compliant with Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: The MCAI requires the initial inspection action within 5 hours TIS. We consider 5 hours TIS an urgent safety of flight compliance time, and we do not consider this unsafe condition to be an urgent safety of flight condition. Because we do not consider this unsafe condition to be an urgent safety of flight condition, we are issuing this proposed action through the normal notice of proposed rulemaking (NPRM) AD process. The initial inspection time of 30 hours TIS or 30 days, whichever occurs first, is an adequate compliance time for this proposed AD action and meets the FAA requirements for an NPRM followed by a final rule.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Staff, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Sarjapur Nagarajan, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4145; fax: (816) 329–4090. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et.seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI European Aviation Safety Agency (EASA) Emergency Airworthiness Directive EAD No: 2007–0147–E, dated May 22, 2007; and Piaggio Aero Industries S.p.A. Service Bulletin (Mandatory) N.: 80–0236 Rev. 1, dated May 15, 2007, for related information.

Issued in Kansas City, Missouri, on July 9, 2007.

Sandra J. Campbell,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–13713 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–121475–03]

RIN 1545–BC61

Qualified Zone Academy Bonds; Obligations of States and Political Subdivisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations and withdrawal of proposed regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the Federal income tax treatment of qualified zone academy bonds. This document contains proposed regulations that provide guidance to state and local governments that issue qualified zone academy bonds and to banks, insurance companies, and other taxpayers that hold those bonds on the program requirements for qualified zone academy bonds. The regulations implement the amendments to section 1397E of the Internal Revenue Code (Code) and provide guidance on the maximum term, permissible use of proceeds, and remedial actions for qualified zone academy bonds. The text of those regulations also serves as the text of these proposed regulations. This document also withdraws proposed regulations published March 26, 2004.

DATES: Written or electronic comments and requests for a public hearing must be received by October 15, 2007.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–121475–03), room 5203, Internal Revenue Service, PO Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–121475–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the Federal eRulemaking Portal at *http://www.regulations.gov/* (IRS REG–121475–03).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Zoran Stojanovic, (202) 622–3980; concerning submissions of comments and/or requests for a hearing, Richard A. Hurst, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in these proposed regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1545–1908. Responses to this collection of information are required to obtain or retain a benefit. This collection of information is required by the IRS to verify compliance with section 1397E. Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP; Washington, DC 20224. Comments on the collection of information should be received by September 14, 2007. Comments are specifically requested concerning:

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

The accuracy of the estimated burden associated with the proposed collection of information;

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

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

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

The collection of information in this proposed regulation is in § 1.1397E–1(h). This collection of information is required by the IRS to verify compliance with section 1397E. This information will be used to identify issuers of qualified zone academy bonds that have established a defeasance escrow as a remedial action taken because of failure

to satisfy certain requirements of section 1397E. The collection of information is required to obtain or retain a benefit. The likely respondents are states or local governments that issue qualified zone academy bonds.

Estimated total annual reporting burden: 3 hours.

Estimated average annual burden hours per respondent: 30 minutes.

Estimated number of respondents: 6.

Estimated annual frequency of responses: varies.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books and records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background and Explanation of Provisions

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 1397E. The temporary regulations amend the final regulations adopted September 26, 2000 (TD 8903) (65 FR 57732), and provide guidance to state and local governments that issue qualified zone academy bonds and to bank, insurance companies, and other taxpayers that hold those bonds. The temporary regulations provide guidance on the program requirements for qualified zone academy bonds. The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

It has been determined that this notice of proposed rule rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. It is estimated that each year six issuers of QZABs will be required to report the establishment of a defeasance escrow, and the average estimated burden of each such reporting is 30 minutes. In addition, the establishment of a defeasance escrow need only be reported once. Therefore, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required. Pursuant to section 7805(f) of the Internal Revenue Code, this regulation has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed rules and how they may be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these regulations are Timothy L. Jones and Zoran Stojanovic, Office of Division Counsel/Associate Chief Counsel, IRS (Tax Exempt and Government Entities). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Proposed Regulations

Under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking (REG–121475–03) published in the **Federal Register** on March 26, 2004 (69 FR 15747) is withdrawn.

Proposed Amendments to the Regulations

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

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by adding an entry in numerical order to read as follows:

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

Section 1.1397E–1 also issued under 26 U.S.C. 1397E. * * *

Par. 2. Section 1.1397E–1 is amended by revising paragraphs (a), (d), (h), (i), (j), (k), (l), and (m) to read as follows:

§ 1.1397E–1 Qualified zone academy bonds.

(a) [The text of the proposed amendment to § 1.1397E–1(a) is the same as the text of § 1.1397E–1T(a) published elsewhere in this issue of the **Federal Register**].

* * * * *

(d) [The text of the proposed amendment to § 1.1397E–1(d) is the same as the text of § 1.1397E–1T(d) published elsewhere in this issue of the **Federal Register**].

* * * * *

(h) [The text of the proposed amendment to § 1.1397E–1(h) is the same as the text of § 1.1397E–1T(h) published elsewhere in this issue of the **Federal Register**].

(i) [The text of the proposed amendment to § 1.1397E–1(i) is the same as the text of § 1.1397E–1T(i) published elsewhere in this issue of the **Federal Register**].

(j) [The text of the proposed amendment to § 1.1397E–1(j) is the same as the text of § 1.1397E–1T(j) published elsewhere in this issue of the **Federal Register**].

(k) [The text of the proposed amendment to § 1.1397E–1(k) is the same as the text of § 1.1397E–1T(k) published elsewhere in this issue of the **Federal Register**].

(l) [The text of the proposed amendment to § 1.1397E–1(l) is the same as the text of § 1.1397E–1T(l) published elsewhere in this issue of the **Federal Register**].

(m) [The text of the proposed amendment to § 1.1397E–1(m) is the same as the text of § 1.1397E–1T(m)(1) and (m)(2) published elsewhere in this issue of the **Federal Register**].

* * * * *

Kevin M. Brown,

Deputy Commissioner for Services and Enforcement.

[FR Doc. E7–13663 Filed 7–13–07; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. CGD05–07–046]

RIN 1625–AA08

Special Local Regulations for Marine Events; Choptank River, Cambridge, MD

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations during the ''Cambridge Offshore Challenge'', a marine event to be held over the waters of the Choptank River at Cambridge, Maryland. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in the Choptank River during the event.

DATES: Comments and related material must reach the Coast Guard on or before August 15, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 416 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203. You may also e-mail comments to *Dennis.M.Sens@uscg.mil.* The Inspections and Investigations Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–07–046), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On September 22 and 23, 2007, the Chesapeake Bay Powerboat Association will sponsor the ''2007 Cambridge Offshore Challenge'', on the waters of the Choptank River at Cambridge, Maryland. The event will consist of approximately 60 offshore powerboats conducting high-speed competitive races between the Route 50 Bridge and Oystershell Point, MD. A fleet of approximately 250 spectator vessels is expected to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of the Choptank River. The temporary special local regulations will be enforced from 10:30 a.m. to 5:30 p.m. on September 22 and 23, 2007, and will restrict general navigation in the regulated area during the event. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no person or vessel will be allowed to enter or remain in the regulated area. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

Although this proposed regulation will prevent traffic from transiting a portion of the Choptank River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, and area newspapers, so mariners can adjust their plans accordingly. Additionally, the proposed regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Choptank River during the event.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would be in effect for only a limited period. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it,

please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Fifth Coast Guard District at the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. Draft documentation supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.35–T05–046 to read as follows:

§ 100.35–T05–046 Choptank River, Cambridge, MD.

(a) *Definitions:* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the 2007 Cambridge Offshore Challenge under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(b) *Regulated area* includes all waters of the Choptank River, from shoreline to shoreline, bounded to the west by the

Route 50 Bridge and bounded to the east by a line drawn along longitude 076° W, between Goose Point, MD and Oystershell Point, MD. All coordinates reference Datum: NAD 1983.

(c) *Special local regulations:* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 10:30 a.m. on September 22, 2007 to 5:30 p.m. on September 23, 2007.

Dated: June 26, 2007.

Fred M. Rosa, Jr.,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E7–13706 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. CGD05–07–060]

RIN 1625–AA08

Special Local Regulations for Marine Events; Back River, Poquoson, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish special local regulations during the ''Poquoson Seafood Festival Workboat Races'', a marine event to be held October 14, 2007 on the waters of the Back River, Poquoson, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to temporarily restrict vessel traffic in a portion of the Back River during the event.

DATES: Comments and related material must reach the Coast Guard on or before August 15, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 415 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203. You may also e-mail comments to *Dennis.M.Sens@uscg.mil.* The Inspections and Investigations Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Fifth Coast Guard District, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–07–060), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to the Coast Guard at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On October 14, 2007, the City of Poquoson will sponsor ''Poquoson Seafood Festival Workboat Races'' on the Back River, immediately adjacent and south of Messick Point. The event will consist of approximately 60 traditional Chesapeake Bay deadrise workboats racing along a marked straight line race course in heats of 2 to 4 boats for a distance of approximately 600 yards. Due to the need for vessel control during the event, the Coast Guard will temporarily restrict vessel traffic in the event area to provide for the safety of participants, spectators and other transiting vessels.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of the Back River, Poquoson, Virginia. The regulations will be in effect from 12 p.m. to 5 p.m. on October 14, 2007. The effect will be to restrict general navigation in the regulated area during the event. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area. Vessel traffic will be allowed to transit the regulated area at slow speed between heats, when the Coast Guard Patrol Commander determines it is safe to do so. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this regulation will prevent traffic from transiting a portion of the Back River during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via the Local Notice to Mariners, marine information broadcasts, area newspapers and local radio stations, so mariners can adjust their plans accordingly. Additionally, the regulated area has been narrowly tailored to impose the least impact on general navigation yet provide the level of safety deemed necessary. Vessel traffic will be able to transit the regulated area at slow speed between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in the effected portions of the Back River during the event.

Although this regulation prevents traffic from transiting a portion of the Back River during the event, this proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would be in effect for only a limited period. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so. Before the enforcement period, we will issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Coast Guard listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. Draft documentation supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—REGATTAS AND MARINE PARADES

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add a temporary § 100.35–T05–060 to read as follows:

§ 100.35–T05–060 Back River, Poquoson, VA.

(a) *Definitions:* The following definitions apply to this section;

(1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Poquoson Seafood Festival Workboat races under the auspices of a Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(b) *Regulated area* includes the waters of the Back River, Poquoson, Virginia, bounded on the north by a line drawn along latitude 37°06′30″ North, bounded on the south by a line drawn along latitude 37°06′15″ North, bounded on the east by a line drawn along longitude 076°18′52″ West and bounded on the west by a line drawn along longitude 076°19′30″ West. All coordinates reference Datum NAD 1983.

(c) *Special local regulations:* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area shall:

(i) Stop the vessel immediately when directed to do so by any Official Patrol.

(ii) Proceed as directed by any Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Effective period.* This section will enforced from 12 p.m. to 5 p.m. on October 14, 2007.

Dated: July 5, 2007.

Neil O. Buschman,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. E7–13724 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. CGD05–07–045]

RIN 1625–AA08

Special Local Regulations for Marine Events; John H. Kerr Reservoir, Clarksville, VA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations for the ''Clarksville Hydroplane Challenge'', a power boat race to be held on the waters of the John H. Kerr Reservoir adjacent to Clarksville, Virginia. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the John H. Kerr Reservoir adjacent to Clarksville, Virginia, during the power boat race.

DATES: Comments and related material must reach the Coast Guard on or before August 15, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 415 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, fax them to (757) 391–8149, or e-mail them to *Dennis.M.Sens@uscg.mil.* The Inspections and Investigations Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–07–045), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

On October 6 and 7, 2007, the Virginia Boat Racing Association will sponsor the ''Clarksville Hydroplane Challenge'', on the waters of the John H. Kerr Reservoir. The event will consist of approximately 70 inboard hydroplanes racing in heats counter-clockwise around an oval racecourse. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

Discussion of Proposed Rule

The Coast Guard proposes to establish temporary special local regulations on specified waters of the John H. Kerr Reservoir adjacent to Occoneechee State Park, Clarksville, Virginia and State Route 15 Highway Bridge. The regulated area includes a section of the John H. Kerr Reservoir approximately one half mile long, and bounded in width by each shoreline. This rule will be enforced from 7:30 a.m. to 6:30 p.m. on October 6 and 7, 2007, and will restrict general navigation in the regulated area during the power boat race. The Coast Guard, at its discretion, when practical will allow the passage of vessels when races are not taking place. Except for participants and vessels authorized by the Coast Guard Patrol Commander, no

person or vessel will be allowed to enter or remain in the regulated area during the enforcement period. These regulations are needed to control vessel traffic during the event to enhance the safety of participants, spectators and transiting vessels.

Regulatory Evaluation

This proposed 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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary. Although this proposed regulation will prevent traffic from transiting a portion of the John H. Kerr Reservoir adjacent to Clarksville, Virginia during the event, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect. Extensive advance notifications will be made to the maritime community via Local Notice to Mariners, marine information broadcasts, area newspapers and local radio stations, so mariners can adjust their plans accordingly. Vessel traffic will be able to transit the regulated area between heats, when the Coast Guard Patrol Commander deems it is safe to do so.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed 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 proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit this section of the John H. Kerr Reservoir during the event.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This rule will be enforced for only a short period, from 7:30 a.m. to 6:30 p.m. on October 6 and 7, 2007. The regulated area will apply to a segment of the reservoir adjacent to State Route 15 Highway Bridge and Occoneechee State Park. Marine traffic may be allowed to pass through the regulated area with the permission of the Coast Guard Patrol Commander. In the case where the Patrol Commander authorizes passage through the regulated area during the event, vessels will be required to proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course. Before the enforcement period, we would issue maritime advisories so mariners can adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Fifth Coast Guard District listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would 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 proposed 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.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is not likely to have a significant effect on the human environment. Draft documentation supporting this preliminary determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 100

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

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233.

2. Add temporary § 100.35–T05–045 to read as follows:

§ 100.35–T05–045 John H. Kerr Reservoir, Clarksville, Virginia.

(a) *Regulated area.* The regulated area is established for the waters of the John H. Kerr Reservoir, adjacent to the State Route 15 Highway Bridge and Occoneechee State Park, Clarksville, Virginia, from shoreline to shoreline, bounded on the south by a line running northeasterly from a point along the shoreline at latitude 36°37′14″ N, longitude 078°32′46.5″ W, thence to latitude 36°37′39.2″ N, longitude 078°32′08.8″ W, and bounded on the north by the State Route 15 Highway Bridge. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Hampton Roads.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Hampton Roads with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* includes all vessels participating in the Clarksville Hydroplane Challenge under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Hampton Roads.

(c) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any Official Patrol and then proceed only as directed.

(ii) All persons and vessels shall comply with the instructions of the Official Patrol.

(iii) When authorized to transit the regulated area, all vessels shall proceed at the minimum speed necessary to maintain a safe course that minimizes wake near the race course.

(d) *Enforcement period.* This section will be enforced from 7:30 a.m. on October 6 to 6:30 p.m. on October 7, 2007.

Dated: July 5, 2007.

Neil O. Buschman,

Captain, U.S. Coast Guard, Commander, Fifth Coast Guard District, Acting.

[FR Doc. E7–13725 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Chapter I

[Docket No. PHMSA–2007–27329 (HM–233A)]

RIN 2137–AD84

Hazardous Materials: Conversion of Special Permits into Regulations of General Applicability

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Request for comments.

SUMMARY: PHMSA is in the process of reviewing widely-used special permits to identify those that have proven safety records and should be converted into the Hazardous Materials Regulations (HMR) as regulations of general applicability. A special permit is an authorization issued by PHMSA that allows a company or individual to package or ship a hazardous material in a manner that varies from the regulations provided an equivalent level of safety is maintained or that, in an emergency, is necessary to protect life or property. Incorporation of special permits into the HMR is a regulatory reform effort.

DATES: Written comments should be submitted on or before September 14, 2007.

ADDRESSES: The U.S. Department of Transportation has relocated to a new facility located at 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. We have modified the delivery instructions below to accommodate this transition period. You may submit comments identified by the docket number (PHMSA–2007–27329 (HM–233A)) by any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. If sent by mail, comments are to be submitted in two copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard.
- *Hand Delivery:* Docket Operations staff will accept deliveries at the new DOT facility in Room W12–140 on the Ground Floor of the West Building

located at 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Hours at the new facility will remain 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Instructions:* All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this notice. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. 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 DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, pages 19477–78), or at *http://dms.dot.gov.*
- *Docket:* For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the Docket Management System (see **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Eileen Edmonson, Office of Hazardous Materials Standards, (202) 366–8553, or Diane LaValle, Office of Hazardous Materials Special Permits and Approvals, (202) 366–4535, Pipeline and Hazardous Materials Safety Administration (PHMSA) 1200 New Jersey Avenue, SE., Washington, DC 20590–0001, or by e-mail to: *Eileen.Edmonson@dot.gov*, or *Diane.LaValle@dot.gov.*

SUPPLEMENTARY INFORMATION: The Pipeline and Hazardous Materials Safety Administration (PHMSA) (hereafter, ''we'' or ''us'') is conducting a review to identify widely-used special permits (formerly called exemptions) with an established safety record which may be candidates for conversion into regulations of general applicability under the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). A special permit allows a packaging manufacturer, shipper, or carrier to deviate from requirements in the HMR provided the special permit achieves at least an equivalent level of safety as that provided by the HMR. The procedures for issuing, modifying, and terminating special permits are prescribed under subpart B of 49 CFR part 107 (§§ 107.101–107.127).

Special permits allow the industry to quickly implement new technologies and to evaluate new operational techniques that often enhance safety and increase productivity. Converting the provisions of special permits with an established safety record into regulations reduces paperwork burdens and facilitates commerce while maintaining an acceptable level of safety. As stated in the summary, this effort is also a regulatory reform and relief effort. The incorporation of the provisions in special permits into the HMR relieves many regulatory burdens on grantees. For example, grantees will no longer be required to maintain and provide copies of the special permits, mark packages and shipping documents with the permit number, and re-apply for authorization when a permit expires. Grantees will no longer be required to train individuals on the requirements of the special permits, but will still need to train employees on HMR compliance. Additionally, incorporation into the HMR provides wider access to the benefits of the provisions that otherwise would be accorded to a limited number of special permit grantees.

PHMSA has a long history of incorporating well-performing special permits into the HMR safely. One of our most recent examples includes incorporating provisions for the use of specialized high-integrity packagings to transport certain poisons without requiring them to be labeled with the POISON label.

Generally, a special permit is not a good candidate for conversion into regulations if it has not been in effect long enough to establish a clear safety record, is based on proprietary information for which the holder has requested confidential treatment, or its conversion would increase the complexity and length of the HMR for the benefit of a limited number of persons.

In this notice, PHMSA is inviting the public to recommend special permits for inclusion into the HMR. You should provide the special permit number and a rationale for its inclusion as a regulation of general applicability. We are particularly interested in the safety history of the special permit and the benefits that would result from its incorporation into the HMR, including reduced transportation costs, increased flexibility, advancement of new technologies, and the like.

We will review all recommendations from the public submitted in response to this notice as part of our ongoing review of outstanding special permits. After completion of this review, we will publish a notice of proposed rulemaking to propose conversion of the provisions of specific special permits into regulations of general applicability.

Issued in Washington, DC, on July 6, 2007, under authority delegated in 49 CFR part 106.

Theodore L. Willke,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. E7–13579 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 72, No. 135
Monday, July 16, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Olympic Province Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Olympic Peninsula Resource Advisory Committee will meet on August 16, 2007 in Shelton, Washinton. The purpose of the meeting is to recommend funding for Title II proposals submitted under Public Law 106–393, H.R. 2389, the Secure Rural Schools Act of 2000, also called the ''Payments to States'' Act. The meeting will be held from 9:30 a.m. to 3:30 p.m. at PUD No. 3 Conference Room, 307 W. Cota Street, Shelton, WA 98584.

FOR FURTHER INFORMATION CONTACT: Karl Denison, Olympic Resource Advisory Committee Liaison, USDA, Olympic National Forest Headquarters, 1835 Black Lake Blvd., Olympia, WA 98512–5623, (360) 956–2306.

SUPPLEMENTARY INFORMATION: Individuals, community-based organizations, tribes and government agencies will present the Title II project proposals submitted to the RAC. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the RAC at that time.

Dated: July 5, 2007.

Dale Hom,

Forest Supervisory, Olympic National Forest.

[FR Doc. 07–3458 Filed 7–13–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Lost River Subwatershed of the Potomac River Watershed, Hardy County, WV

AGENCY: Natural Resources Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Kevin Wickey, responsible Federal official for projects administered under the provisions of the Flood Control Act of 1944, Public Law 78–534, in the State of West Virginia, is hereby providing notification that a Record of Decision to proceed with the installation of the Lost River Site 16 project on Lower Cove Run is available. Single copies of this Record of Decision may be obtained from Kevin Wickey at the address shown below.

FOR FURTHER INFORMATION CONTACT: Kevin Wickey, State Conservationist, Natural Resources Conservation Service, 75 High Street, Room 301, Morgantown, West Virginia 26505, telephone (304) 284–7545.

Dated: July 9, 2007.

Louis E. Aspey,

Assistant State Conservationist—Water Resources.

''(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10–904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)''

[FR Doc. E7–13744 Filed 7–13–07; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Economic Development Administration

[Docket No.: 070628222–7223–01]

Solicitation of Applications for the National Technical Assistance, Training, Research and Evaluation Program: Regional Training Curriculum Implementation

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and request for applications.

SUMMARY: The Economic Development Administration (EDA) is soliciting applications for FY 2007 National Technical Assistance, Training, Research and Evaluation program (NTA Program) funding. Recent studies on economic development, including several EDA-funded reports, stress the importance of a regional approach to successful economic development. However, the actual implementation of economic development from the regional perspective is not robust. Therefore, in FY 2006, EDA funded the development of a practitioner-oriented curriculum to acquaint local economic development practitioners with the benefits, process, and practice of economic regionalism. Pursuant to this notice and the NTA Program, EDA now solicits applications to deliver this curriculum to practitioners across the Nation. EDA's mission is to lead the federal economic development agenda by promoting innovation and competitiveness, preparing American regions for growth and success in the worldwide economy. Through its NTA Program, EDA works towards fulfilling its mission by funding research and technical assistance projects to promote competitiveness and innovation in rural and urban regions throughout the United States and its territories. By working in conjunction with its research partners, EDA will help States, local governments, and community-based organizations to achieve their highest economic potential.

DATES: To be considered timely, a completed application, regardless of the format in which it is submitted, must be either: (1) Received by the EDA representative listed below under ''Paper Submissions'' no later than August 13, 2007 at 5 p.m. EDT; or (2) transmitted and time-stamped at *www.grants.gov* no later than August 13, 2007 at 5 p.m. EDT. Any application received or transmitted, as the case may be, after 5 p.m. EDT on August 13, 2007 will be considered non-responsive and will not be considered for funding. Please see the instructions below under ''Submitting Application Packages'' for information regarding format options for submitting completed applications. The closing date and time are the same for paper submissions as for electronic

submissions. By September 10, 2007, EDA expects to notify the applicant selected for investment assistance under this notice. The selected applicant should expect to receive funding for its project within thirty days of EDA's notification of selection. Applicants choosing to submit completed applications electronically in whole or in part through *www.grants.gov* should follow the instructions set out below under ''Electronic Access'' and in section IV. of the complete Federal Funding Opportunity (FFO) announcement for this request for applications.

ADDRESSES: *Paper Submissions:* Completed applications submitted pursuant to this notice and request for applications may be hand-delivered or mailed to William P. Kittredge, Senior Program Analyst, Economic Development Administration, Room 7009, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Washington, DC 20230. Applicants are advised that, due to mail security measures, EDA's receipt of mail sent via the United States Postal Service may be substantially delayed or suspended in delivery. Applicants may wish to use a guaranteed overnight delivery service.

Electronic Submissions: Applicants submitting full or partial paper submissions are encouraged to do so by e-mail. Completed applications may be e-mailed to William P. Kittredge, Senior Program Analyst, at *wkittredge@eda.doc.gov*. Applicants also may submit applications electronically in whole or in part in accordance with the instructions provided at *www.grants.gov* and in section IV.B. of the FFO announcement. EDA strongly encourages that applicants not wait until the application closing date to begin the application process through *www.grants.gov*. The preferred file format for electronic attachments (e.g., the project narrative and additional exhibits to Form ED–900A and Form ED–900A's program-specific component) is portable document format (PDF); however, EDA will accept electronic files in Microsoft Word, WordPerfect, Lotus or Excel formats.

FOR FURTHER INFORMATION CONTACT: For additional information on the NTA Program or to obtain paper application packages for this notice, please contact William P. Kittredge, Senior Program Analyst, via e-mail at *wkittredge@eda.doc.gov* (preferred) or by telephone at (202) 482–5442.

For additional information regarding electronic submissions, please access the following link for assistance in navigating *www.grants.gov* and for a list of useful resources: *http://www.grants.gov/applicants/applicant_help.jsp.* If you do not find an answer to your question under *Frequently Asked Questions,* try consulting the *Applicant's User Guide*. If you still cannot find an answer to your question, contact *www.grants.gov* via e-mail at *support@grants.gov* or telephone at 1–800–518–4726. The hours of operation for *www.grants.gov* are Monday-Friday, 7 a.m. to 9 p.m. (EST) (except for federal holidays).

Additional information about EDA and its NTA Program may be obtained from EDA's Internet Web site at *http://www.eda.gov*. The complete FFO announcement for this request for applications is available at *www.grants.gov* and at *http://www.eda.gov*.

SUPPLEMENTARY INFORMATION:

Background Information: Recent studies on economic development, including several EDA-funded reports, stress the importance of a regional approach to successful economic development. However, the actual implementation of economic development from the regional perspective is not robust. Therefore, in FY 2006, EDA funded the development of a practitioner-oriented curriculum to acquaint local economic development practitioners with the benefits, process, and practice of economic regionalism. Through this notice and request for applications, EDA now solicits applications for the nationwide delivery of this curriculum to economic development practitioners.

Applicants should describe the number of training sessions (workshops) contemplated, the methods by which appropriate participants will be identified, and what, if any, certification or other credential will be awarded to participants who successfully complete the training. The curriculum currently being developed is based, in part, on a needs assessment conducted as part of the development process. The assessment report is available online at *http://knowyourregion.wcu.edu/pdf/EDANeedsAssessment.pdf*.

The workshop format and materials are in the final stages of development. EDA anticipates the final format will be two-day workshops designed to develop forward-thinking regional economic development plans that generate momentum for regional economic development and help practitioners identify and access appropriate federal resources. Based on real world planning experiences in many different regions, as well as the latest thinking of federal policy makers, the workshops are intended to help economic development practitioners understand their regions in a knowledge-based economy and develop a global competitive advantage.

Under this notice and request for applications, a nationwide implementation of the workshops is required, although the specific number of workshops is at the applicant's discretion. Applications incorporating workshops that leverage EDA investment assistance are preferred. One example of leveraging is a workshop coincident with practitioner association meetings at the national, regional, and State levels. EDA will require the recipient to evaluate the workshops' impact via an exit survey, the results of which are reported to EDA following each workshop.

Application Package: An application package consists of the following three forms:

1. Form ED–900A, *Application for Investment Assistance* (OMB Control No. 0610–0094);

2. Form ED–900A's program-specific component, *National Technical Assistance, Training, and Research and Evaluation Program Requirements* (OMB Control No. 0610–0094); and

3. Form SF–424, *Application for Federal Assistance* (OMB Control No. 4040–0004).

Please note that applicants must submit all components of the application package in accordance with the instructions provided in sections IV. and VII.B. of the FFO announcement.

Submitting Application Packages: Applications may be submitted in one of three formats: (1) Full paper (hardcopy) submission; (2) partial paper (hardcopy) submission and partial electronic submission; or (3) full electronic submission, each in accordance with the procedures provided in section IV.B. of the FFO announcement. The content of the application is the same for paper submissions as it is for electronic submissions. Applications completed in accordance with the instructions set forth in the FFO announcement, regardless of the option chosen for submission, will be considered for EDA funding under this notice. Incomplete applications and applications submitted by facsimile will not be considered.

Section IV.C.2. of the FFO announcement provides a checklist of all items that a complete application package must include. As stated in section I.B. of the FFO announcement, EDA contemplates a three-year cycle of funding under this competitive solicitation. Therefore, applicants must submit a separate budget for each year of the three-year project period. The

budget must include columns reflecting the federal, non-federal cash, non-federal in-kind and total amounts allocated to each budget line-item for each project year. Applicants should use the budget categories identified in ''Section B—Budget Categories'' of Form SF–424A, with sub-categories and explanations as necessary.

Paper Access: Each of the three forms listed above under ''Application Package'' are separate attachments available at *http://www.eda.gov/InvestmentsGrants/Application.xml*. You may print copies of each of these forms from *http://www.eda.gov/InvestmentsGrants/Application.xml*. You also may obtain paper application packages by contacting the EDA representative listed above under **FOR FURTHER INFORMATION CONTACT**.

Electronic Access: Applicants may apply electronically through *www.grants.gov* and may access this grant opportunity synopsis by following the instructions provided on *http://www.grants.gov/search/basic.do*. The synopsis will have an application package, which is an electronic file that contains forms pertaining to this specific grant opportunity. On *http://www.grants.gov/search/basic.do*, applicants can perform a basic search for this grant opportunity by completing the ''*Keyword Search*,'' the ''*Search by Funding Opportunity Number*,'' or the ''*Search by CFDA Number*'' field, and then clicking the ''*Search*'' button.

Funding Availability: EDA may use funds appropriated under the Revised Continuing Appropriations Resolution, 2007, Pub. L. No. 110–5 (February 15, 2007) to make awards under the NTA Program authorized under section 207 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147), as amended (PWEDA), and 13 CFR part 306, subpart A. Approximately $2,700,000 is available, and shall remain available until expended, for funding awards pursuant to the NTA Program. Based on past experience with its NTA Program, EDA anticipates the award made under this request for applications to be between $275,000 and $375,000 for the first year of the project period. EDA published the first two of three **Federal Register** notices under the NTA Program on June 21, 2007 (72 FR 34225) and July 6, 2007 (72 FR 36952), respectively.

Statutory Authority: The authority for the NTA Program is PWEDA. EDA published final regulations (codified at 13 CFR chapter III) in the **Federal Register** on September 27, 2006 (71 FR 56658). The final regulations became effective upon publication and reflect changes made to PWEDA by the Economic Development Administration Reauthorization Act of 2004 (Pub. L. No. 108–373, 118 Stat. 1756 (2004)). These regulations will govern an award made under this notice and request for applications. The final regulations and PWEDA are accessible on EDA's Internet Web site at *http://www.eda.gov/InvestmentsGrants/Lawsreg.xml*.

Catalog of Federal Domestic Assistance (CFDA) Numbers: 11.303, Economic Development—Technical Assistance; 11.312, Economic Development—Research and Evaluation.

Eligibility Requirement: Pursuant to PWEDA, eligible applicants for and eligible recipients of EDA investment assistance include a District Organization; an Indian Tribe or a consortium of Indian Tribes; a State; a city or other political subdivision of a State, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities, or a consortium of political subdivisions; an institution of higher education or a consortium of institutions of higher education; a public or private non-profit organization or association; and, as provided in section 207 of PWEDA (42 U.S.C. 3147) for the NTA Program, a private individual or a for-profit organization. *See* section 3 of PWEDA (42 U.S.C. 3122) and 13 CFR 300.3.

Cost Sharing Requirement: Generally, the amount of the EDA grant may not exceed fifty (50) percent of the total cost of the project. However, a project may receive an additional amount that shall not exceed thirty (30) percent, based on the relative needs of the region in which the project will be located, as determined by EDA. *See* section 204(a) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(1). Under this request for applications, the Assistant Secretary of Commerce for Economic Development (Assistant Secretary) also has the discretion to establish a maximum EDA investment rate of up to one hundred (100) percent where the project (i) merits and is not otherwise feasible without an increase to the EDA investment rate; or (ii) will be of no or only incidental benefit to the recipient. *See* section 204(c)(3) of PWEDA (42 U.S.C. 3144) and 13 CFR 301.4(b)(4).

While cash contributions are preferred, in-kind contributions, consisting of assumptions of debt or contributions of space, equipment, and services, may provide the non-federal share of the total project cost. *See* section 204(b) of PWEDA (42 U.S.C. 3144). EDA will fairly evaluate all in-kind contributions, which must be eligible project costs and meet applicable federal cost principles and uniform administrative requirements. Funds from other federal financial assistance awards are considered matching share funds only if authorized by statute that allows such use, which may be determined by EDA's reasonable interpretation of the statute. *See* 13 CFR 300.3. The applicant must show that the matching share is committed to the project, available as needed and not conditioned or encumbered in any way that precludes its use consistent with the requirements of EDA investment assistance. *See* 13 CFR 301.5.

Intergovernmental Review: Applications under the NTA Program are not subject to Executive Order 12372, ''*Intergovernmental Review of Federal Programs.*''

Evaluation and Selection Procedures: To apply for an award under this request for applications, an eligible applicant must submit a completed application package to EDA before the closing date and time specified in the **DATES** section of this notice, and in the manner provided in section IV. of the FFO announcement. Any application received or transmitted, as the case may be, after 5 p.m. EDT on August 13, 2007 will not be considered for funding. Applications that do not meet all items required or that exceed the page limitations set forth in section IV.C. of the FFO announcement will be considered non-responsive and will not be considered by the review panel. By September 10, 2007, EDA expects to notify the applicant selected for investment assistance under this notice. Unsuccessful applicants will be notified by postal mail that their applications were not selected for funding. Applications that meet all the requirements will be evaluated by a review panel comprised of at least three EDA staff members, all of whom will be full-time federal employees.

Evaluation Criteria: The review panel will evaluate the applications and rate and rank them using the following criteria of approximate equal weight:

1. Conformance with EDA's statutory and regulatory requirements, including the extent to which the proposed project satisfies the award requirements set out below and as provided in 13 CFR 306.2:

a. Strengthens the capacity of local, State or national organizations and institutions to undertake and promote effective economic development programs targeted to regions of distress;

b. Benefits distressed regions; and

c. Demonstrates innovative approaches to stimulate economic development in distressed regions;

2. The degree to which an EDA investment will have strong

organizational leadership, relevant project management experience and a significant commitment of human resources talent to ensure the project's successful execution (*see* 13 CFR 301.8(b));

3. The ability of the applicant to implement the proposed project successfully (*see* 13 CFR 301.8);

4. The feasibility of the budget presented;

5. The cost to the Federal government; and

6. The extent to which the application:

a. Includes workshops that leverage EDA investment assistance; and

b. Exhibits regional dispersal and an estimated size of the audience and its composition (e.g., urban and rural practitioners).

Selection Factors: The Assistant Secretary, as the Selecting Official, expects to fund the highest ranking application, as recommended by the review panel, submitted under this notice. However, the Assistant Secretary may not make any selection, or he may select an application out of rank order for the following reasons: (1) A determination that the application better meets the overall objectives of sections 2 and 207 of PWEDA (42 U.S.C. 3121 and 3147); (2) the applicant's performance under previous awards; or (3) the availability of funding.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements

The *Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements,* published in the **Federal Register** on December 30, 2004 (69 FR 78389), is applicable to this request for applications. This notice may be accessed by entering the **Federal Register** volume and page number provided in the previous sentence at the following Internet Web site: *http://www.gpoaccess.gov/fr/retrieve.html.*

Paperwork Reduction Act

This request for applications contains collections of information subject to the requirements of the Paperwork Reduction Act (PRA). The Office of Management and Budget (OMB) has approved the use of Form ED–900A (*Application for Investment Assistance*) under control number 0610–0094. Form ED–900A's program-specific component (*National Technical Assistance, Training, and Research and Evaluation Program Requirements*) also is approved under OMB control number 0610–0094, and incorporates Forms SF–424A (*Budget Information—Non-Construction Programs,* OMB control number 0348–0044) and SF–424B (*Assurances—Non-Construction Programs,* OMB control number 0348–0040). OMB has approved the use of Form SF–424 (*Application for Financial Assistance*) under control number 4040–0004. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless the collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866, ''*Regulatory Planning and Review.*''

Executive Order 13132

It has been determined that this notice does not contain ''policies that have Federalism implications,'' as that phrase is defined in Executive Order 13132, ''*Federalism.*''

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for rules concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)). Because notice and opportunity for comment are not required pursuant to 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. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: July 9, 2007.

Benjamin Erulkar,

Deputy Assistant Secretary of Commerce for Economic Development and Chief Operating Officer.

[FR Doc. E7–13586 Filed 7–13–07; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Deemed Export Advisory Committee; Notice of Partially Closed Meeting

The Deemed Export Advisory Committee (DEAC) will meet in an open session on Monday, July 30, 2007 from 9 a.m.–12:30 p.m. at the University of Chicago, The Donnelley Biological Sciences Learning Center (BSLC), 924 East 57th Street, Room 115, Chicago, IL 60637 (located between Ellis Avenue and Drexel Avenue). Registration will begin at 8:30 a.m. A map of the campus can be found at the following Web site *http://maps.uchicago.edu/pdfs/campus.pdf.*

The DEAC is a Federal Advisory Committee established in accordance with the requirements of the Federal Advisory Committee Act, as amended, 5 U.S.C. app. 2. It advises the Secretary of Commerce on deemed export licensing policy. A tentative agenda of topics for discussion is listed below. While these topics will likely be discussed, this list is not exhaustive and there may be discussion of other related items during the public session.

July 30, 2007

Public Session

1. Introductory Remarks.
2. Current Deemed Export Control Policy Issues.
3. Technology Transfer Issues.
4. U.S. Industry Competitiveness.
5. U.S. Academic and Government Research Communities.
6. Industry, Academia and other Stakeholder Comments.

A limited number of seats will be available for the public session. Reservations will not be accepted. To the extent time permits, members of the general public may present oral statements to the DEAC. The general public may submit written statements at any time before or after the meeting. However, to facilitate distribution to DEAC members, BIS suggests that general public presentation materials or comments be forwarded before the meeting to Ms. Yvette Springer at *Yspringer@bis.doc.gov.*

July 31, 2007

Closed Session

The DEAC will also meet in a closed session on Monday, July 30, 2007, from approximately 8 a.m.–9 a.m. and from approximately 1:30 p.m.–5 p.m. In addition, the DEAC will meet in a closed session on Tuesday, July 31, 2007 from approximately 9 a.m.–5:30 p.m. During the closed session, there will be discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). The Assistant Secretary for Administration formally determined on July 2, 2007, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 (10)(d)), that the portion of the meeting concerning trade secrets and commercial or financial information deemed privileged or confidential as described in 5 U.S.C. 552b(c)(4), the portion of the meeting concerning

matters the premature disclosure of which would be likely to significantly frustrate implementation of an agency action as described in 5 U.S.C. 552b(c)(9)(B), and the portion of the meeting dealing with matters that are (A) specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order (5 U.S.C. 552b(c)(1)(A) and (1)(B)), shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 10(a)(1) and 10(a)(3). All other portions of the DEAC meeting will be open to the public.

For more information, please call Yvette Springer at (202) 482–2813.

Dated: July 10, 2007.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 07–3452 Filed 7–13–07; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–912]
[C–570–913]

Extension of the Deadline for Determining the Adequacy of the Antidumping Duty and Countervailing Duty Petitions: New Pneumatic Off–The-Road Tires from The People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 16, 2007.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Charles Riggle, AD/CVD Operations, Office 8 (antidumping); or Mark Hoadley or Thomas Gilgunn, AD/CVD Operations, Office 6 (countervailing), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4243, (202) 482–0650, (202) 482–3148, and (202) 482–4236, respectively.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Petitions

On June 18, 2007, the Department of Commerce (''Department'') received antidumping duty and countervailing duty petitions (''petitions'') filed in proper form by Titan Tire Corporation, a subsidiary of Titan International, Inc. (''Titan''), and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL–CIO-CLC (''USW'') (collectively, ''Petitioners''), on behalf of the domestic industry producing new pneumatic off–the-road tires (''OTR tires'').

Determination of Industry Support for the Petitions

Sections 702(b)(1) and 732(b)(1) of the Tariff Act of 1930, as amended (''Act'') require that antidumping and countervailing duty petitions be filed by or on behalf of the domestic industry. Sections 702(c)(4)(A) and 732(c)(4)(A) of the Act provide that the Department's industry support determination be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, sections 702(c)(4)(D) and 732(c)(4)(D) of the Act provide that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) if there is a large number of producers, determine industry support using a statistically valid sampling method to poll the industry.

Extension of Time

Sections 702(c)(1)(A)(ii) and 732(c)(1)(A)(ii) of the Act provide that within 20 days of the filing of antidumping and countervailing duty petitions, the Department will determine, inter alia, whether the petitions have been filed by or on behalf of the U.S. industry producing the domestic like product. Sections 702(c)(1)(B) and 732(c)(1)(B) of the Act provide that the deadline for the initiation determination can be extended by 20 days in any case in which the Department must ''poll or otherwise determine support for the petition by the industry . . . .'' Because it is not clear from the petitions whether the industry support criteria have been met, we have determined to extend the time limit for initiating the investigations in order to poll the domestic industry. We intend to issue polling questionnaires to all known domestic producers of OTR tires identified in the petitions. The questionnaires will be on file in the Central Records Unit in room B–099 of the main Department of Commerce building. The questionnaire requests each company to respond to the questions and fax its response to the Department.

We will need additional time to analyze the domestic producers' responses to our request for information. See the ''Determination of Industry Support for the Petitions'' section of this notice, above. Therefore, in accordance with sections 702(c)(1)(B) and 732(c)(1)(B) of the Act, we are extending the deadline for determining the adequacy of the petitions until July 28, 2007, which is 40 days from the filing date of the petitions. Because July 28, 2007, falls on a Saturday, the initiation determination will be due no later than Monday, July 30, 2007, the first business day following the statutory deadline.

International Trade Commission Notification

Because the Department has extended the deadline for the initiation determinations, the Department has contacted the International Trade Commission (''ITC'') and has made this extension notice available to the ITC.

Dated: July 6, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–13719 Filed 7–13–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–909, A–520–802]

Certain Steel Nails from the People's Republic of China and the United Arab Emirates:Initiation of Antidumping Duty Investigations

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 16, 2007.

FOR FURTHER INFORMATION CONTACT: Nicole Bankhead (People's Republic of China) or David Goldberger (United Arab Emirates), AD/CVD Operations, Offices 9 and 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202)

482–9068 or (202) 482–4136, respectively.

SUPPLEMENTARY INFORMATION:

The Petitions

On May 29, 2007, the Department of Commerce (the Department) received petitions concerning imports of certain steel nails from the People's Republic of China (PRC) (PRC petition) and the United Arab Emirates (UAE) (UAE petition) filed in proper form by Mid Continent Nail Corporation, Davis Wire Corporation, Gerdau Ameristeel Corporation (Atlas Steel & Wire Division), Maze Nails (Division of W.H. Maze Company), Treasure Coast Fasteners, Inc., and the United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (collectively, petitioners). *See* the Petitions on Certain Steel Nails from the People's Republic of China and the United Arab Emirates filed on May 29, 2007, and the petitioners' submission dated June 22, 2007. On June 1 and June 18, 2007, the Department issued requests for additional information and clarification of certain areas of the petitions. Based on the Department's requests, the petitioners filed additional information on June 1, June 7 (three distinct submissions on General, PRC–only, and UAE–only material), and June 20, 2007. The period of investigation (POI) for the UAE is April 1, 2006, through March 31, 2007. The POI for the PRC is October 1, 2006, through March 31, 2007. *See* 19 CFR 351.204(b).

In accordance with section 732(b) of the Tariff Act of 1930, as amended (the Act), the petitioners allege that imports of certain steel nails from the PRC and the UAE are being, or are likely to be, sold in the United States at less than fair value, within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that the petitioners filed these petitions on behalf of the domestic industry because the petitioners are interested parties as defined in section 771(9)(C) and (D) of the Act, and have demonstrated sufficient industry support with respect to the antidumping duty investigations that the petitioners are requesting that the Department initiate (*see* ''Determination of Industry Support for the Petitions'' section below).

Scope of Investigations

The merchandise covered by each of these investigations includes certain steel nails having a shaft length up to 12 inches. Certain steel nails include, but are not limited to, nails made of round wire and nails that are cut. Certain steel nails may be of one piece construction or constructed of two or more pieces. Certain steel nails may be produced from any type of steel, and have a variety of finishes, heads, shanks, point types, shaft lengths and shaft diameters. Finishes include, but are not limited to, coating in vinyl, zinc (galvanized, whether by electroplating or hot–dipping one or more times), phosphate cement, and paint. Head styles include, but are not limited to, flat, projection, cupped, oval, brad, headless, double, countersunk, and sinker. Shank styles include, but are not limited to, smooth, barbed, screw threaded, ring shank and fluted shank styles. Screw–threaded nails subject to these proceedings are driven using direct force and not by turning the fastener using a tool that engages with the head. Point styles include, but are not limited to, diamond, blunt, needle, chisel and no point. Finished nails may be sold in bulk, or they may be collated into strips or coils using materials such as plastic, paper, or wire.

Certain steel nails subject to these proceedings are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7317.00.55, 7317.00.65 and 7317.00.75.

Excluded from the scope of these proceedings are roofing nails of all lengths and diameter, whether collated or in bulk, and whether or not galvanized. Steel roofing nails are specifically enumerated and identified in ASTM Standard F 1667 (2005 revision) as Type I, Style 20 nails. Also excluded from the scope of these proceedings are corrugated nails. A corrugated nail is made of a small strip of corrugated steel with sharp points on one side. Also excluded from the scope of these proceedings are fasteners suitable for use in powder–actuated hand tools, not threaded and threaded, which are currently classified under HTSUS 7317.00.20 and 7317.00.30. Also excluded from the scope of these proceedings are thumb tacks, which are currently classified under HTSUS 7317.00.10.00.

While the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

Comments on Scope of Investigations

During our review of the petitions, we discussed the scope with the petitioners to ensure that it is an accurate reflection of the products for which the domestic industry is seeking relief. Moreover, as discussed in the preamble to the regulations (*Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997)), we are setting aside a period for interested parties to raise issues regarding product coverage. The Department encourages all interested parties to submit such comments within 20 calendar days of signature of this notice. Comments should be addressed to Import Administration's Central Records Unit (CRU), Room 1870, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230. The period of scope consultations is intended to provide the Department with ample opportunity to consider all comments and to consult with parties prior to the issuance of the preliminary determinations.

Comments on Product Characteristics for Antidumping Duty Questionnaires

We are requesting comments from interested parties regarding the appropriate physical characteristics of certain steel nails to be reported in response to the Department's antidumping questionnaires. For example, we are considering whether physical characteristics such as steel grade, shaft length, finish type, head style, shank style, and point style are relevant. This information will be used to identify the key physical characteristics of the subject merchandise in order to more accurately report the relevant factors and costs of production, as well as to develop appropriate product comparison criteria.

Interested parties may provide any information or comments that they feel are relevant to the development of an accurate listing of physical characteristics. Specifically, they may provide comments as to which characteristics are appropriate to use 1) as general product characteristics and 2) as the product comparison criteria. We note that it is not always appropriate to use all product characteristics as product comparison criteria. We base product comparison criteria on meaningful commercial differences among products. In other words, while there may be some physical product characteristics utilized by manufacturers to describe certain steel nails, it may be that only a select few product characteristics take into account commercially meaningful physical characteristics. In addition, interested parties may comment on the order in which the physical characteristics should be used in model matching.

Generally, the Department attempts to list the most important physical characteristics first and the least important characteristics last.

In order to consider the suggestions of interested parties in developing and issuing the antidumping duty questionnaires, we must receive comments at the above–referenced address by July 30, 2007. Additionally, rebuttal comments must be received by August 9, 2007.

Determination of Industry Support for the Petitions

Section 732(b)(1) of the Act requires that a petition be filed by or on behalf of the domestic industry. In order to determine whether a petition has been filed by or on behalf of the domestic industry, the Department, pursuant to section 732(c)(4)(A) of the Act, determines whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using any statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs the Department to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law. *See Algoma Steel Corp. Ltd. v. United States, 688 F. Supp. 639, 642–44 (CIT 1988); see also High Information Content Flat Panel Displays and Display Glass Therefor From Japan: Final Determination; Rescission of Investigation and Partial Dismissal of Petition*, 56 FR 32376, 32380–81 (July 16, 1991).

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this subtitle.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

With regard to the domestic like product, the petitioners do not offer a definition of domestic like product distinct from the scope of the investigations. Based on our analysis of the information submitted in the petitions, we have determined there is a single domestic like product, certain steel nails, which is defined further in the ''Scope of the Investigations'' section above, and we have analyzed industry support in terms of that domestic like product. *See PRC Initiation Checklist* at Attachment II and *UAE Initiation Checklist* at Attachment II.

Based on information provided in the petitions, the share of total estimated U.S. production of the domestic like product in calendar year 2006 represented by the petitioners did not account for more than 50 percent of the total production of the domestic like product. Therefore, in accordance with section 732(c)(4)(D) of the Act, we polled the industry.

On June 1, 2007, we issued polling questionnaires to all known domestic producers of certain steel nails identified in the petitions and by the Department's research. On June 6, 2007, we issued a polling questionnaire to an additional producer whose identity we learned from the ITC. The questionnaires are on file in the CRU in room B–099 of the main Department of Commerce building. We requested that each company complete the polling questionnaire and certify its response by faxing its response to the Department by the due date. For a detailed discussion of the responses received, *see PRC Initiation Checklist* at Attachment II and *UAE Initiation Checklist* at Attachment II.

Section 732(c)(4)(B) of the Act states that (i) the Department ''shall disregard the position of domestic producers who oppose the petition if such producers are related to foreign producers, as defined in section 771(4)(B)(ii), unless such domestic producers demonstrate that their interests as domestic producers would be adversely affected by the imposition of an antidumping duty order'' and (ii) the Department ''may disregard the position of domestic producers of a domestic like product who are importers of the subject merchandise.'' In addition, 19 CFR 351.203(e)(4) states that the position of a domestic producer that opposes the petition (i) will be disregarded if such producer is related to a foreign producer or to a foreign exporter under section 771(4)(B)(ii) of the Act, unless such domestic producer demonstrates to the Secretary's satisfaction that its interests as a domestic producer would be adversely affected by the imposition of an antidumping order, and (ii) may be disregarded if the producer is an importer of the subject merchandise or is related to such an importer under section 771(4)(B)(ii) of the Act.

Certain producers of the domestic like product that opposed the petition against the PRC are related to foreign producers and/or imported subject merchandise from the PRC. We have analyzed the information provided by these producers in their polling questionnaire responses and information provided in other submissions to the Department (*see* the petitioners' June 18, 2007, submission and Illinois Tool Works Inc.'s June 25, 2007, submission). Based on our analysis, we have determined that it would be appropriate to disregard the position of any of the opposing producers under section 732(c)(4)(B) of the Act. When the position of any of these producers is disregarded, the petitioners satisfy the statutory industry support requirements of section 732(c)(4)(A) of the Act. *See PRC Initiation Checklist* at Attachment II and *UAE Initiation Checklist* at Attachment II.

With regard to the PRC petition, the data collected demonstrate that the domestic producers of certain steel nails who support the PRC petition account for at least 25 percent of the total production of the domestic like product and, once the opposition of certain producers is disregarded, more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the PRC

petition. *See PRC Initiation Checklist* at Attachment II.

Our analysis of the data collected with regard to the UAE petition indicates that the domestic producers of certain steel nails who support the UAE petition account for at least 25 percent of the total production of the domestic like product and more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the UAE petition. *See UAE Initiation Checklist* at Attachment II. We note that certain U.S. producers oppose the petition against the UAE; however, despite such opposition, the petitioners still account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the UAE petition. As a result, we need not examine whether the U.S. producers that opposed the petition against the UAE are related to, or import from, producers of the subject merchandise in the UAE.

Therefore, the Department determines that the petitioners filed these petitions on behalf of the domestic industry because they are interested parties as defined in sections 771(9)(C) and (D) of the Act and they have demonstrated sufficient industry support with respect to the antidumping investigations that they are requesting the Department initiate. *See PRC Initiation Checklist* at Attachment II and *UAE Initiation Checklist* at Attachment II.

Allegations and Evidence of Material Injury and Causation

The petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the imports of the subject merchandise sold at less than normal value (NV). The petitioners contend that the industry's injured condition is illustrated by reduced market share, lost sales, reduced production, reduced capacity and capacity utilization rate, reduced shipments, underselling and price depression or suppression, lost revenue, reduced employment, decline in financial performance, and an increase in import penetration. We have assessed the allegations and supporting evidence regarding material injury and causation, and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See PRC Initiation Checklist* at Attachment III (Injury) and *UAE Initiation Checklist* at Attachment III (Injury).

Allegations of Sales at Less Than Fair Value

The following is a description of the allegations of sales at less than fair value upon which the Department based its decision to initiate these investigations of imports of certain steel nails from the PRC and the UAE. The sources of data for the deductions and adjustments relating to the U.S. price, constructed value (CV) (for the UAE), and the factors of production (for the PRC) are also discussed in the country–specific initiation checklists. *See PRC Initiation Checklist* and *UAE Initiation Checklist*. Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations, if appropriate.

UAE

Export Price (EP)

The petitioners calculated two EPs using price offers for UAE–produced steel nails obtained from customer contacts. The petitioners made adjustments for the importer's markup, U.S. inland freight, ocean freight, marine insurance, U.S. port fees, and foreign inland freight. The petitioners derived the importer profit margin from published financial statement data of a trading company that imports nails into the United States. The petitioners estimated U.S. inland freight based on their knowledge and experience in shipping steel nails within the United States. They calculated ocean freight and marine insurance based on the difference between the average per–unit customs value and the average per–unit CIF value reported in U.S. import statistics for the HTSUS category corresponding to the price data at the likely U.S. port of entry. U.S. port fees were based on standard U.S. government percentages, as applied to the petitioners' estimate of entered value. Finally, the petitioners calculated foreign inland freight based on a UAE freight quote obtained through market research. *See UAE Initiation Checklist*.

NV Based on CV

With respect to NV, the petitioners provided information that the UAE home market is not viable. According to the petitioners, the UAE steel nail industry is geared almost exclusively to exports. *See*, *e.g.*, Volume III of the UAE petition at 9 and Exhibit UAE 5. Through market research, the petitioners learned that the type of wood–frame construction used predominantly in North America makes the United States a desirable market for exports, while other types of specialty fasteners are more prevalent in the UAE home market. See Supplement to the UAE petition, dated June 1, 2007.

Further, the petitioners provided information that no third–country market for the UAE's principal exporter of the merchandise, Dubai Wire, is viable. Based on available export data from the UAE, the petitioners state that Germany is the next largest country to which subject merchandise was exported, and that the volume of merchandise exported to Germany was 1.01 percent of the volume exported to the United States. *See* Volume III of the UAE petition at 9 and Exhibit UAE 5, and Supplement to the UAE petition, dated June 1, 2007. As this is less than the 5–percent threshold provided for in section 773(a)(1)(B)(ii)(II) of the Act, Germany is not a viable third–country market. Accordingly, the petitioners based NV on CV.

Pursuant to section 773(e) of the Act, CV consists of the cost of manufacture (COM); selling, general and administrative (SG&A) expenses; financial expenses; packing expenses; and profit. In calculating COM and packing, the petitioners based the quantity of each of the inputs used to manufacture and pack steel nails on the production experience of two U.S. steel nail producers during the prospective POI, and multiplied it by the value of inputs used to manufacture steel nails in the UAE using either publicly available data or data obtained from a market research study. *See* Volume III of the UAE petition at 10–14, the June 7, 2007, supplement to the UAE petition at Exhibit UAE Supp–12 and the June 20, 2007, supplement to the UAE petition at 3–5 and Exhibits UAE Supp2–12A, Supp2–12B and Supp2–20.

Raw material (*i.e.*, steel wire rod) is the most significant input used in the production of steel nails. The petitioners determined the usage of steel wire rod based on the quantities used by two U.S. manufacturers to produce a metric ton of steel nails. The value of steel wire rod was based on price data obtained through market research. The price data from the market research study were contemporaneous with the POI. The values for other inputs and packing (*i.e.*, scrap, stearic acid, polypropylene, and vinyl resins) were based on statistics from the World Trade Atlas for the period of July 2005 to August 2006. *See* Volume III of the UAE petition at 10–11 and Exhibits UAE 13–14, the June 1, 2007, supplement to the UAE petition at Exhibit 1, and the June 7, 2007, supplement to the UAE petition at Exhibit UAE Supp–12.

The petitioners determined labor costs using the labor inputs derived from the experience of two U.S. steel nail producers and valued these inputs using UAE labor costs obtained from a market research study. Based on the study, the petitioners calculated an hourly rate using an average of four industrial sources in the UAE. For the value of indirect labor, the petitioners calculated an hourly rate using an average of two industrial sources in the UAE for accountants, engineers, managers, supervisors, and general managers. *See* Volume III of the UAE petition at 11 and Exhibit UAE 8, the June 1, 2007, supplement to the UAE petition at Exhibit 1, and the June 7, 2007, supplement to the UAE petition at Exhibit UAE Supp–12.

To calculate energy, factory overhead, and SG&A expenses, the petitioners relied on the financial statements of a steel fabricating company in the UAE, Arab Heavy Industries (AHI), for the fiscal year ending December 31, 2006, the period most contemporaneous with the POI. The petitioners stated that the surrogate financial statements did not separately itemize other operating expenses (*i.e.*, energy, SG&A); therefore, to avoid double–counting energy expenses in the calculation of CV it was necessary to use a combined ratio for energy, factory overhead, and SG&A expenses. Specifically, the petitioners calculated the total of depreciation, other operating expenses, and other income from AHI's financial statements as a percentage of materials and labor from AHI's financial statements. This ratio was then applied to the materials (excluding packing) and labor costs calculated as discussed above. The petitioners believe this is a conservative calculation of the energy, factory overhead, and SG&A expenses as they have included all other income from AHI's financial statements. Additionally, based on AHI's financial statements, they believe packing expenses were included in the denominator of the energy, factory overhead, and SG&A ratio calculation, but not in the materials and labor figure to which they applied it (packing expenses were added after this calculation), thus potentially understating CV. *See* the June 20, 2007, supplement to the UAE petition at 3–5 and Exhibits UAE Supp2–12A, Supp2–12B and Supp2–20.

To calculate the average financial expense and profit rates, the petitioners relied on the financial statements of the same UAE steel fabricator, AHI. The petitioners note that based on the surrogate financial statements, the financial expense ratio was zero. *See* the June 20, 2007, supplement to the UAE petition at 3–5 and Exhibits UAE Supp2–12A, Supp2–12B and Supp2–20.

PRC

EP

The petitioners relied on three U.S. prices for certain steel nails manufactured in the PRC and offered for sale in the United States. The prices quoted were for three different types of steel nails falling within the scope of the PRC petition, for delivery to the U.S. customer within the POI. The petitioners deducted from the prices the costs associated with exporting and delivering the product, including U.S. inland freight, ocean freight and insurance charges, U.S. duty, port and wharfage fees, foreign inland freight costs, and foreign brokerage and handling. *See PRC Initiation Checklist*. The petitioners based the importer profit margin and U.S. inland freight on their knowledge and experience. The petitioners used the Department's standard all–distance freight rate for foreign inland freight. They calculated ocean freight and marine insurance based on the difference between the average per–unit customs value and the average per–unit CIF value reported in U.S. import statistics for the HTSUS category corresponding to the price data at the likely U.S. port of entry. U.S. port fees were based on standard percentages of U.S. government fees. The petitioners estimated foreign brokerage and handling based on Indian surrogate value data applied in another Department proceeding. *See* Volume II of the PRC petition at 1–15, and Exhibits PRC 1A, 1B, 2A, 2B, 3A, 3B, 6A - 10F, and the June 7, 2007, PRC–only submission at 15–18, and Exhibit 10.

PRC NV

The petitioners stated that the PRC remains a non–market economy (NME) country and no determination to the contrary has yet been made by the Department. Recently, the Department examined the PRC's market status and determined that NME status should continue for the PRC. *See Memorandum from the Office of Policy to David M. Spooner, Assistant Secretary for Import Administration, Regarding The People's Republic of China Status as a Non–Market Economy*, dated May 15, 2006 (This document is available online at http://ia.ita.doc.gov/download /prc–nme-status/prc–nme-status–memo.pdf.) In addition, in two recent investigations, the Department also determined that the PRC is an NME country. *See Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China*, 72 FR 9508 (March 2, 2007) and *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007). In accordance with section 771(18)(C)(i) of the Act, the presumption of NME status remains in effect until revoked by the Department. The presumption of NME status for the PRC has not been revoked by the Department and remains in effect for purposes of the initiation of this investigation. Accordingly, the NV of the product is appropriately based on factors of production valued in a surrogate market economy country in accordance with section 773(c) of the Act. In the course of this investigation, all parties will have the opportunity to provide relevant information related to the issues of the PRC's NME status and the granting of separate rates to individual exporters.

The petitioners selected India as the surrogate country arguing that, pursuant to section 773(c)(4) of the Act, India is an appropriate surrogate because it is a market economy country that is at a level of economic development comparable to that of the PRC and is a significant producer and exporter of certain steel nails. *See* Volume II of the PRC petition at 16–20. Based on the information provided by the petitioners, we believe that the use of India as a surrogate country is appropriate for purposes of initiation. After the initiation of the investigation, we will solicit comments regarding surrogate country selection.

The petitioners provided dumping margin calculations using the Department's NME methodology as required by 19 CFR 351.202(b)(7)(i)(C) and 19 CFR 351.408. However, because information regarding the factors of production consumed by Chinese producers is not available to the petitioners, the petitioners calculated NVs for each U.S. price discussed above based on consumption rates for producing certain steel nails as experienced by U.S. producers. *See* Volume II of the PRC petition at 19–20. The petitioners used U.S. producer consumption figures for 2006, stating that such information provides as contemporaneous a time period as possible with the POI and is reasonably available to the petitioners. *See id*. With the exception of labor, the petitioners state that U.S. input consumption quantities reflect efficient production methods and they provide a conservative estimate of the factors of production used by the Chinese. *See id*.

For labor, the petitioners adjusted the number of labor hours per unit of output to account for a known difference between the U.S. and Chinese production processes. Specifically, the petitioners stated that the production of subject merchandise is more labor intensive in the PRC than in the United States, requiring significantly more labor to produce the same amount of finished product. The petitioners provide affidavits to support this labor adjustment. *See* Volume II of the PRC petition at 20, Exhibits PRC 11A - 11C, and the June 7, 2007, PRC–only supplement to the PRC petition at 4 and Exhibit PRC 11. Accordingly, we found the petitioners use of the production data to be reasonable.

For the NV calculations, the petitioners were unable to obtain surrogate value figures contemporaneous with the POI for all material inputs, and accordingly relied upon the most recent information available. The sources of these data include the published national market prices for carbon steel commodities by Joint Plant Committee of India and the World Trade Atlas compilation of Indian import statistics, which provided data through September 2006 at the time the petition was filed. *See* Volume II of the PRC petition at Exhibits PRC 14A and PRC 15. Where an input price reflected a period preceding the POI, the petitioners adjusted it for inflation using the wholesale price index for India reported by the Reserve Bank of India. *See* Volume II of the PRC petition at Exhibit PRC 13. For fuel-, energy-, and lubricant–related inputs, the petitioners used the energy–specific inflators published by the International Monetary Fund. *See id.* The petitioners excluded those values from countries previously determined by the Department to be NME countries and imports into India from Indonesia, the Republic of Korea and Thailand, because the Department has previously excluded prices from these countries because they maintain broadly available, non–industry-specific export subsidies, as well as imports from unspecified countries. *See Hand Trucks and Certain Parts Thereof From the People's Republic of China: Final Results of Administrative Review and Final Results of New Shipper Review*, 72 FR 27287 (May 15, 2007), and accompanying Issues and Decision Memorandum at Comment 23. The surrogate values used by the petitioners for the material and packing inputs consist of information reasonably available to the petitioners and are, therefore, acceptable for purposes of initiation.

With respect to the surrogate financial expenses, the petitioners relied on the factory overhead, SG&A expenses and profitability of an Indian steel fastener producer, Lakshmi Precision Screws Ltd. (''LPS''), taken from the company's most recently available annual report that is closest to the POI. *See* Volume II of the PRC petition at Exhibit PRC 20. The petitioners claim that LPS is a modern producer using state of the art equipment and is India's only publicly traded producer of steel fasteners. The petitioners stated that they were unable to find public financial statements from other Indian nail producers; therefore, the petitioners argue, LPS provides the best information reasonably available as a surrogate for the production of certain steel nails in the PRC. We find that the petitioners' use of LPS as the source for the surrogate financial expenses is appropriate for purposes of initiation. The Department made minor modifications to the surrogate financial ratios calculated by the petitioners. As a result, the calculations for the three NVs and the resulting margin calculations changed slightly. *See PRC Initiation Checklist* at Attachment V.

Fair Value Comparisons

Based on the data provided by the petitioners, there is reason to believe that imports of certain steel nails from the PRC and the UAE are being, or are likely to be, sold in the United States at less than fair value. Based on comparisons of EP to CV, calculated in accordance with section 773(a)(4) of the Act, the estimated dumping margins for certain steel nails from the UAE are 70.77 and 71.50 percent. Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the estimated dumping margins for certain steel nails from the PRC are 55.19, 97.15 and 118.04 percent.

Initiation of Antidumping Investigations

Based upon the examination of the petitions on certain steel nails from the PRC and the UAE, the Department finds that the petitions meet the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of certain steel nails from the PRC and the UAE are being, or are likely to be, sold in the United States at less than fair value. In accordance with section 733(b)(1)(A) of the Act, unless postponed, we will make our preliminary determinations no later than 140 days after the date of this initiation.

Separate Rates and Quantity and Value Questionnaire

The Department recently modified the process by which exporters and producers may obtain separate–rate status in NME investigations. *See* Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries (April 5, 2005) (*Separate Rates and Combination Rates Bulletin*), available on the Department's website at http://ia.ita.doc.gov/policy/bull05–1.pdf. The process requires the submission of a separate–rate status application. Based on our experience in processing the separate–rate applications in the following antidumping duty investigations, we have modified the application for this investigation to make it more administrable and easier for applicants to complete. *See Initiation of Antidumping Duty Investigations: Certain Lined Paper Products From India, Indonesia, and the People's Republic of China*, 70 FR 58374, 58379 (October 6, 2005), *Initiation of Antidumping Duty Investigation: Certain Artist Canvas From the People's Republic of China*, 70 FR 21996, 21999 (April 28, 2005), and *Initiation of Antidumping Duty Investigations: Diamond Sawblades and Parts Thereof from the People's Republic of China and the Republic of Korea*, 70 FR 35625, 35629 (June 21, 2005). The specific requirements for submitting the separate–rate application in this investigation are outlined in detail in the application itself, which will be available on the Department's website at http://ia.ita.doc.gov/ia–highlights-and–news.html on the date of publication of this initiation notice in the **Federal Register**. The separate–rate application is due no later than September 7, 2007.

NME Respondent Selection and Quantity and Value Questionnaire

For NME investigations, it is the Department's practice to request quantity and value information from all known exporters identified in the PRC petition. Although many NME exporters respond to the quantity and value information request, at times some exporters may not have received the quantity and value questionnaire or may not have received it in time to respond by the specified deadline. Therefore, the Department typically requests the assistance of the NME government in transmitting the Department's quantity and value questionnaire to all companies that manufacture and export subject merchandise to the United

States, as well as to manufacturers that produce the subject merchandise for companies that were engaged in exporting subject merchandise to the United States during the POI. The quantity and value data received from NME exporters is used as the basis to select the mandatory respondents.

The Department requires that the respondents submit a response to both the quantity and value questionnaire and the separate–rate application by the respective deadlines in order to receive consideration for separate–rate status. Appendix I of this notice contains the quantity and value questionnaire that must be submitted by all NME exporters no later than July 30, 2007. In addition, the Department will post the quantity and value questionnaire along with the filing instructions on the IA website at http://ia.ita.doc.gov/ia–highlights-and–news.html. The Department will send the quantity and value questionnaire to those companies identified in Exhibit I–5 of Volume I of the PRC petition and those identified by the NME government.

Use of Combination Rates in an NME Investigation

The Department will calculate combination rates for certain respondents that are eligible for a separate rate in the PRC investigation. The *Separate Rates and Combination Rates Bulletin*, states:

> [w]hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non–investigated firms receiving the weighted–average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash–deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.

See Separate Rates and Combination Rates Bulletin, at 6.

Distribution of Copies of the Petitions

In accordance with section 732(b)(3)(A) of the Act, copies of the public versions of the petitions have been provided to the representatives of the Governments of the PRC and the UAE. We will attempt to provide a copy of the public version of the petitions to the foreign producers/exporters, consistent with 19 CFR 351.203(c)(2).

International Trade Commission Notification

We have notified the ITC of our initiations, as required by section 732(d) of the Act.

Preliminary Determinations by the International Trade Commission

The ITC will preliminarily determine, no later than July 30, 2007, whether there is a reasonable indication that imports of certain steel nails from the PRC and the UAE are materially injuring, or threatening material injury to, a U.S. industry. A negative ITC determination with respect to either of the investigations will result in that investigation being terminated; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: July 9, 2007.

David M. Spooner,

Assistant Secretaryfor Import Administration.

Appendix – I

Where it is not practicable to examine all known producers/exporters of subject merchandise, section 777A(c)(2) of the Tariff Act of 1930 (as amended) permits us to investigate 1) a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or 2) exporters and producers accounting for the largest volume and value of the subject merchandise that can reasonably be examined.

In the chart below, please provide the total quantity and total value of all your sales of merchandise covered by the scope of this investigation (see scope section of this notice), produced in the PRC, and exported/shipped to the United States during the period October 1, 2006, through March 31, 2007.

Market	Total Quantity	Terms of Sale	Total Value
United States			
1. Export Price Sales			
2.			
a. Exporter name			
b. Address			
c. Contact			
d. Phone No.			
e. Fax No.			
3. Constructed Export Price Sales			
4. Further Manufactured			
TOTAL SALES			

Total Quantity:

- Please report quantity on a metric ton basis. If any conversions were used, please provide the conversion formula and source.

Terms of Sales:

- Please report all sales on the same terms (*e.g.*, free on board).

Total Value:

- All sales values should be reported in U.S. dollars. Please indicate any exchange rates used and their respective dates and sources.

Export Price Sales:

- Generally, a U.S. sale is classified as an export price sale when the first sale to an unaffiliated person occurs before importation into the United States.
- Please include any sales exported by your company directly to the

United States;

- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please *do not* include any sales of merchandise manufactured in Hong Kong in your figures.

Constructed Export Price Sales:

- Generally, a U.S. sale is classified as a constructed export price sale when the first sale to an unaffiliated person occurs after importation. However, if the first sale to the unaffiliated person is made by a person in the United States affiliated with the foreign exporter, constructed export price applies even if the sale occurs prior to importation.

- Please include any sales exported by your company directly to the United States;
- Please include any sales exported by your company to a third–country market economy reseller where you had knowledge that the merchandise was destined to be resold to the United States.
- If you are a producer of subject merchandise, please include any sales manufactured by your company that were subsequently exported by an affiliated exporter to the United States.
- Please *do not* include any sales of merchandise manufactured in Hong Kong in your figures.

Further Manufactured:

- Further manufacture or assembly costs include amounts incurred for direct materials, labor and overhead, plus amounts for general and administrative expense, interest expense, and additional packing expense incurred in the country of further manufacture, as well as all costs involved in moving the product from the U.S. port of entry to the further manufacturer.

[FR Doc. E7–13721 Filed 7–13–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Trade Mission Statement

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Mission Statement

Renewable Energy and Alternative Fuels Mission to Europe. September 10–19, 2007.

Mission Description

The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service will organize a Renewable Energy and Alternative Fuels Trade Mission to Germany, Hungary, the Slovak Republic, the Czech Republic and Poland, September 10–19, 2007. This event offers a timely and cost-effective means for U.S. firms to enter promising markets for renewable energies equipment, technology and services. Target sectors holding high potential for U.S. exporters include biomass, biofuels, waste-to-energy, hydropower, wind, geothermal, solar and clean coal. During the Munich, Germany stop, the program will include a country briefing, a European Union-wide perspective on renewable energy, a reception for business and government contacts hosted by the U.S. Consulate, and one-on-one appointments with prospective business contacts. Each of the stops in Central Europe will include a country briefing, reception for business and government contacts hosted by the U.S. Ambassador or other high-ranking embassy official, one-on-one appointments with prospective business contacts, and high-level meetings with government officials and business leaders.

Commercial Setting

Germany: The German economy is the world's third largest and, after the expansion of the EU, accounts for nearly one-fifth of European Union GDP. Germany is the United States' largest European trading partner and is the sixth largest market for U.S. exports. German business and consumer confidence is increasing rapidly as Germany continues to build upon last year's 2.7 percent increase in GDP. Germany is once again becoming Europe's economic engine with an expected GDP growth rate this year of approximately 2.3–2.8 percent. Since EU accession 2004, Hungary, the Slovak Republic and Czech Republic and Poland have experienced robust rates of economic growth, dramatically increased inflows of foreign direct investment and enhanced access to EU development funds. The need to reduce dependence on non-EU sources and the ambitious target set by the EU for renewables to comprise 20% of general energy consumption by 2020 are driving a significant demand for new equipment, technology and services. These developments have created robust business opportunities for U.S. firms operating within these sectors. Germany's power plant capacity is currently roughly 11,000 MW, which is unlikely to increase as new power plants under construction or being planned will only replace older, existing plants. However, Germany's energy supply is still based mainly on fossil resources. The finiteness of these resources and negative effects on the environment necessitate increased development of renewable energies to ensure future energy supply. Due to rising prices of fossil products, and to environmental protection measures mandated by Germany's federal government and the EU, the use of regenerative energy in Germany has increased considerably in recent years and is expected to increase further, creating areas of opportunities for companies offering technology and know-how for this market segment. Germany's energy industry is one of the largest investors in the country with 80 billion euros ($106.5 billion USD) to be invested in networks and power plants by the end of 2020. However, as the world's sixth largest producer of CO_2 emissions, Germany is trying to slash its output of greenhouse gases and is planning to have renewable energy sources supply a quarter of its energy needs by 2020. Currently, renewable energy sources supply 12% of Germany's energy, primarily from wind, water, biomass and photovoltaics. By 2010, experts predict an increase in sales for the whole renewable energy sector of 45 billion euros ($60 billion USD) with an export share of 16 billion euros ($21.3 billion USD).

Hungary: Hungary relies heavily on oil and gas from Russia, together with one nuclear plant, for most of its energy needs. Future diversity is key, and renewable sources are a priority. With power demand increasing 2% yearly, Hungary needs another 6,300 MW of capacity over 10–15 years. The renewable portion is expected to reach 600 MW by 2020, from 170 MW now. U.S. know-how can help Hungary meet its goals.

Slovak Republic: In 2005, nuclear plants provided almost 60% of the

country's electricity. By the end of 2008, that number will decline to 30% as older reactors are taken out of service. The Slovak government will need to replace the reactors. Almost 90% of all fossil fuels are being imported, largely from Russia. Domestic coal and natural gas contribute only 2% of present energy needs. Renewable energy sources presently account for less than 3% of the total. The government wants to increase that number to 24% by 2020. U.S. technology is well regarded in Slovakia, creating significant business opportunities for American firms in the renewable energy sector.

Czech Republic: The Czech Republic is unique in the region as an exporter of energy, due to its central location in the heart of the European manufacturing belt, low production costs, and EU membership. Last year the country exported 29% of its generated energy, mainly to Germany, Austria, and Slovakia. The Czech energy sector is poised for dramatic changes. The current electricity generation system still relies on the country's rapidly diminishing reserves of brown coal, though nuclear energy also plays a key role. Major retrofit projects for these coal plants drive demand for clean coal technology. Another key trend is the increased focus on renewable energy, spurred by EU accession. Renewable sources should supply 8% of the Czech energy supply by 2010; currently, these sources supply only 4.8%.

Poland: Currently Poland generates less than 3% of its energy from renewable sources, whereas mandated targets require a 10.4% level by 2010. Implementation of the targets will cut greenhouse gases by 18 million tons and experts estimate $3.27 billion in new investments in renewable energy projects in coming years. Financing for these investments will come from state and local government budgets, various domestic and multilateral environmental funds, EU structural funds and individual investors. American products and technologies are well regarded and U.S. companies have found Poland to be a very receptive market.

Mission Goals: The goal of the Renewable Energy and Alternative Fuels Trade Mission to Europe is to facilitate first-hand market exposure, access to government decision makers, and meetings with private-sector contacts, including potential agents, distributors, end-users and other business partners.

Mission Scenario: In each of the stops, participants will attend country briefings, a business reception hosted by the U.S. Ambassador or U.S. Consulate, and one-on-one meetings with prospective business contacts. In Germany, participants will also receive a European Union-wide perspective on renewable energy.

Mission Timetable: Depart U.S. on Saturday, September 8, for Germany or Sunday, September 9, for Budapest. Unless otherwise noted below, participants are responsible for making their own travel arrangements.

Monday, September 10, Germany:

(1) Country briefing: European Union-wide perspective on renewable energy.

(2) Reception for business and government contacts hosted by the U.S. Consulate.

(3) Matchmaking appointments.

Tuesday, September 11, Budapest:

(1) Last possible day for participants to arrive in Budapest

(2) Country/Industry Briefing.

Wednesday, September 12, Budapest:

(1) Matchmaking appointments.

(2) Reception.

Thursday, September 13, Budapest—Bratislava:

(1) Commercial Service will arrange to transport mission participants from Budapest to Bratislava. Bus transportation costs are included in mission participation fee.

(2) Participants arrive in Bratislava.

(3) Country/Industry Briefing.

(4) Reception at Ambassador's residence.

Friday, September 14, Bratislava:

(1) Matchmaking appointments.

Friday, September 14—Sunday, September 16:

After the conclusion of the program in Bratislava, participants may decide individually whether to remain in Bratislava or to travel on to Prague. All participants must arrive in Prague by the evening of Sunday, September 16.

Monday, September 17, Prague:

(1) Country/Industry Briefing.

(2) Matchmaking appointments.

(3) Reception.

Tuesday, September 18, Prague—Warsaw.

(1) Participants depart Prague for Warsaw.

(2) Country/Industry Briefing.

Wednesday, September 19, Warsaw:

(1) Matchmaking appointments.

(2) Reception at Ambassador's residence.

Thursday, September 20: Depart for United States.

Criteria for Participation and Selection

- Relevance of a company's business line to mission goals.
- Timeliness of company's signed application and participation agreement (including a participation fee of $4,600 for the five-stop mission).
- Company's potential for business in Central Europe.
- Provision of adequate information on company's products and/or services, and company's primary market objectives to facilitate appropriate matching with potential business partners.
- Certification that the company meets Departmental guidelines for participation. A company's products or services must be either produced in the United States, or, if not, marketed under the name of a U.S. firm and have at least 51 percent U.S. content of the value of the finished product or service.

Any partisan political activities (including political contributions) of an applicant are entirely irrelevant to the selection process. Mission recruitment will be conducted in an open and public manner, including publication in the **Federal Register**, posting on the Commerce Department trade mission calendar—*http://www.ita.doc.gov/doctm/tmcal.html*—and other Internet Web sites, press releases to the general and trade media, direct mail and broadcast fax, notices by industry trade associations and other multiplier groups, and at industry meetings, symposia, conferences, trade shows.

Recruitment for the mission will begin immediately and conclude no later than July 31, 2007. The participation fee for the event will be $4,600 per company for the five-stop mission. The participation fee does not include most meals, travel or lodging costs. Up to 10 companies will be accepted on a first-come, first-served basis, and applications received after the closing date will be considered only if space and scheduling constraints permit.

Contact Information: Glen Roberts, Director, U.S. Commercial Service Export Assistance Center, 2100 Chester Ave., 1st Floor Suite 166, Bakersfield, CA 93301, Tel: (661) 637–0136, fax: (661) 637–0156, *glen.roberts@mail.doc.gov.*

Nancy Hesser,

Manager, Commercial Service Trade Missions, Trade Promotion Programs, Office of Domestic Operations, U.S. and Foreign Commercial Service, Washington, DC 20230, (202) 482–34663, nancy.hesser@mail.doc.gov.

[FR Doc. 07–3463 Filed 7–13–07; 8:45 am]

BILLING CODE 3510–25–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Cordell Bank National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Cordell Bank National Marine Sanctuary (CBNMS or Sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): *Community At Large Marin County Primary seat, Community at Large Sonoma County Alternate seat.* Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the protection and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve a 3 year term, pursuant to the Council's Charter.

DATES: Applications are due by August 17th, 2007.

ADDRESSES: Application kits may be obtained from Cordell Bank National Marine Sanctuary, Rowena Forest, P.O. Box 159, Olema, CA 94950. And at *http://cordellbank.noaa.gov/welcome.html.* Completed applications should be sent to the above post office address.

FOR FURTHER INFORMATION CONTACT: Rowena Forest/CBNMS, P.O. Box 159 Olema, CA 94950, (415) 663–0314 x105, and *Rowena.forest@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Advisory Council for Cordell Bank was established in 2002 to support the joint management plan review process currently underway for the CBNMS and its neighboring sanctuaries, Gulf of the Farallones and Monterey Bay National Marine Sanctuaries. The Council has members representing education, research, conservation, maritime activity, and community-at-large. The government seats are held by representatives from the National Marine Fisheries Service, the United States Coast Guard, and the Managers of the Gulf of the Farallones, Monterey Bay and Channel Islands National Marine Sanctuaries. The Council holds four regular meetings per year, and one annual retreat.

Authority: 16 U.S.C. 1431, *et seq.*

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: July 9, 2007.

Daniel J. Basta,

Director, National Marine Sanctuary Program, National Ocean Services, National Oceanic and Atmospheric Administration.

[FR Doc. 07–3456 Filed 7–13–07; 8:45 am]

BILLING CODE 3510–NK–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XB40

Endangered Species and Marine Mammals; File No. 10014

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the New Jersey Department of Environmental Protection (NJDEP), Division of Science, Research and Technology, P.O. Box 409, Trenton, NJ 08625–0409, has applied in due form for a permit to take marine mammals and sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before August 15, 2007.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov.* Include in the subject line of the e-mail comment the following document identifier: File No. 10014.

FOR FURTHER INFORMATION CONTACT: Patrick Opay or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216) and the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The NJDEP seeks permission to conduct research to elucidate the distribution and abundance of baleen whales, odontocete whales, pinnipeds, and sea turtles. Research would include take by survey approach during shipboard and aircraft transect surveys of up to 200 common dolphins, 410 bottlenose dolphins, 100 Atlantic spotted dolphins, 100 striped dolphins, 100 pantropical spotted dolphins, 100 spinner dolphins, 100 clymene dolphins, 10 Northern bottlenosed whales, 10 melon-headed whales, 25 white-sided dolphins, 10 white-beaked dolphins, 10 Risso's dolphins, 200 pilot whales, 100 harbor porpoises, 10 killer whales, 10 sperm whales, 10 Cuvier's beaked whales, 10 Mesoplodon whales, 20 pygmy/dwarf sperm whales, 10 pygmy killer whales, 10 blue whales, 10 sei whales, 25 minke whales, 100 fin whales, 100 humpback whales, 300 Northern right whales, 1400 harbor seals, 400 gray seals, 25 harp seals, 25 hooded seals, 10 hawksbill sea turtles, 100 leatherback sea turtles, 600 loggerhead sea turtles, 100 Kemp's ridley sea turtles, and 50 green sea turtles. The study area would include U.S. waters offshore of southern New Jersey out to a distance of 20 nautical miles. A five-year permit is requested.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: July 10, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–13736 Filed 7–13–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2007–HA–0073]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In compliance with Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces a new information collection. 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 information collection; (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.

DATES: Consideration will be given to all comments received by September 14, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to Office of the Assistant Secretary of Defense for Health Affairs (OASD), TRICARE—Health Program Analysis and Evaluation, ATTN: LtCol Lorraine Babeu, 5111 Leesburg Pike, Suite 810A, Falls Church, VA 22041–3206, or call (703) 681–0039.

Title and OMB Number: Public Perceptions of Military Health Care; OMB Control Number 0720–TBD.

Needs and Uses: The goal of this survey effort is to determine the public's perceptions of Military Health Care and compare and contrast that with their perceptions of U.S. Health Care.

Affected Public: Individuals or Households.

Annual Burden Hours: 133.

Number of Respondents: 1,000.

Responses Per Respondent: 1.

Average Burden Per Response: .133 (8 minutes).

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The goal of this survey effort is to understand and compare the public's perceptions of Military health care to that of Health Care in general in the United States. The Military Health Care System's vision statement is—''A world class health system that supports the military mission by fostering, protecting, sustaining and restoring health''. Recent developments have tarnished that vision. The media have focused attention on the plight of wounded military personnel in the direct care environment, Walter Reed specifically. They have published various articles and stories on the shortfalls of Military Health Care to include support services (Medical Evaluation Boards, Physical Evaluation Boards, Housing, Pay, etc.) as provided in accounts from beneficiary and other sources. There are numerous and ongoing anecdotal accounts of red tape, bureaucracy, physician shortages (particularly mental health care workers), substandard care, neglect, problems with consults and appointments, and overall perceived deep and systemic failures of the Military Health Care System. HA/TMA is very concerned about the implications of these negative accounts of Military Health Care on the perceptions of the public regarding the provision of health care, ancillary and support services. HA/TMA would like to understand the extent to which the public holds negative perceptions of the system, what their perceptions were/are about Military Health Care in general and what can be done, if anything, to help regain the public's trust in this important resource since this current breech occurred. We would also like to compare and contrast the public's perceptions of Military Health Care with those of Health Care in the public arena as a way to gain more insight into the issue. Moreover, health care for military personnel and their family members has often been cited as one of the key recruitment and retention tools for the Department. Data from this survey will help establish a baseline for understanding the public's attitude about Military Health Care and help determine if changes in the system based on recommended interventions such as increased staffing, computerized medical records, streamlined processes and procedures, etc., will improve the public's perceptions or attitudes. For the purposes of this survey, Military Health Care is defined as medical and dental care for individuals entitled to health care under 10 USC, Chapter 55.

Dated: July 9, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–3451 Filed 7–13–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

[USN–2007–0040]

United States Marine Corps; Privacy Act of 1974; System of Records

AGENCY: United States Marine Corps, DoD.

ACTION: Notice to add a records system.

SUMMARY: The U.S. Marine Corps is adding a system of records notice from its inventory of records systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

DATES: The addition will be effective on August 15, 2007 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to Headquarters, U.S. Marine Corps, FOIA/PA Section (CMC–ARSE), 2 Navy Annex, Room 1005, Washington, DC 20380–1775.

FOR FURTHER INFORMATION CONTACT: Ms. Tracy D. Ross at (703) 614–4008.

SUPPLEMENTARY INFORMATION: The U.S. Marine Corps' records system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the

Federal Register and are available from the address above.

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on July 5, 2007, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: July 9, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

M05100–6

SYSTEM NAME:

Camp Lejeune Historic Drinking Water Notification Registry.

SYSTEM LOCATION:

Headquarters U.S. Marine Corps (I&L LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

U.S. Service Members (active, reserve, retired, and separated), military dependents, Federal government employees, and civilian personnel who were/are stationed, live(d), or were/are employed aboard Marine Corps Base Camp Lejeune, NC which may have been exposed to contaminated drinking water between 1957 to 1987. Additionally, any person interested in the Camp Lejeune contaminated drinking water issue.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, current address, phone number, e-mail address, date, address, and duty status while living or working on Camp Lejeune.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5041, Headquarters, U.S. Marine Corps.

PURPOSE(S):

The purpose of this system is to maintain contact information of people who may have been exposed to contaminated drinking water while living or working on Camp Lejeune as well as other parties who are interested in the issue. This information will be used to provide notifications and updated information of such persons.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD ''Blanket Routine Uses'' that appear at the beginning of the U.S. Marine Corps' compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronic storage media.

RETRIEVABILITY:

Individual's name.

SAFEGUARDS:

The Registry's servers are located in a secure area at Headquarters U.S. Marine Corps. Access to the database containing registry records will be controlled and restricted by Headquarters U.S. Marine Corps personnel through Public Key Infrastructure encryption and User ID permission levels. Public users will only be able input address/contact data into the registry and will not be able to retrieve any data.

RETENTION AND DISPOSAL:

Records will be kept for two years then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Environmental Officer, Headquarters U.S. Marine Corps (I&L LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commandant of Marine Corps, Headquarters U.S. Marine Corps (I&L LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

Written requests should contain full name and must be signed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to additional information about themselves contained in this system should address written inquiries to the Commandant of Marine Corps, Headquarters U.S. Marine Corps (I&L LFL), 2 Navy Annex, Room 3109, Washington, DC 20380–1775.

Written requests should contain full name and must be signed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E7–13710 Filed 7–13–07; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Office of Postsecondary Education; Overview Information; Fund for the Improvement of Postsecondary Education; Notice Inviting Applications for New Hurricane Education Recovery Awards for Fiscal Year 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.938H.

Dates: July 16. 2007.

Deadline for Transmittal of Pre-Application: July 27, 2007.

Deadline for Transmittal of Applications: August 17, 2007.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: To provide grants to institutions of higher education (IHEs), as defined in section 101 or section 102(c) of the Higher Education Act of 1965, as amended (HEA), that are located in an area in which a major disaster was declared related to Hurricanes Katrina or Rita that were forced to close, relocate, or significantly curtail their activities as a result of damage directly caused by the hurricanes. These Hurricane Education Recovery Awards can only be used to defray expenses, (including lost revenue, reimbursement for expenses already incurred, and construction) incurred as a direct result of Hurricanes Katrina or Rita, and for payments to enable affected IHEs to provide grants to students who attend such IHEs for academic years beginning on or after July 1, 2006.

Supplementary Information: Under the Emergency Supplemental Appropriations and Additional Supplemental Appropriations for Agricultural and Other Emergency Assistance for the Fiscal Year Ending September 30, 2007, and for Other Purposes (Pub. L. No. 110–28), only IHEs as defined in section 101 or section 102(c) of the HEA that are located in an

area in which a major disaster was declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to Hurricanes Katrina and Rita, and that were forced to close, relocate, or significantly curtail their activities as a result of damage directly caused by the hurricanes may receive awards. The area for which a major disaster was declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to Hurricanes Katrina and Rita includes the States of Louisiana and Mississippi and certain counties in the States of Alabama, Florida, and Texas. A list of these counties is available at: *http://www.fema.gov/hazard/hurricane/hu_recovery.shtm*.

Hurricane Education Recovery Awards can only be used to defray expenses, including lost revenue, expenses already incurred, and construction expenses directly related to damage resulting from Hurricanes Katrina or Rita and for payments to enable affected IHEs to provide grants to students who attend such IHEs for academic years beginning on or after July 1, 2006. These grants are awarded under the authority of the Fund for the Improvement of Postsecondary Education authorized by title VII, part B of the HEA.

Public Law No. 110–28 authorizes the Department to make these funds available based on criteria established by the Secretary. Accordingly, the Secretary establishes and will consider the following criteria in allocating these funds: expenses that would have been covered by revenues lost by the IHE as a direct result of the hurricanes; expenses incurred by the IHE in remedying the effects of the hurricanes; the costs of construction associated with physical damage caused by the hurricanes; any amount of any insurance settlement or other reimbursement received including from a Federal or other relief agency; and the number of Pell Grant recipients enrolled at the IHE at any time during the 2005–06 and 2006–07 award year. IHEs must include information responsive to each of these criteria in their pre-applications.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553), and section 437 of the General Education Provisions Act (GEPA) (20 U.S.C. 1232), the Department generally offers interested parties the opportunity to comment on proposed program requirements. However, Pub. L. No. 110–28 specifically exempts criteria established by the Secretary for the award of funds under this program from the rulemaking requirements of the APA and GEPA.

Program Authority: 20 U.S.C. 1138–1138d.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 82, 84, 85, 86, 97, 98, and 99.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $30,000,000.

Estimated Average Size of Awards: $750,000.

Estimated Number of Awards: 40.

Note: The Department is not bound by any estimates in this notice.

Project Period: IHEs receiving Hurricane Education Recovery Awards must obligate the funds received by September 30, 2009. Funds being used for construction must be expended by September 30, 2011.

III. Eligibility Information

1. *Eligible Applicants:* IHEs, as defined in section 101 or 102(c) of the HEA that are located in an area in which a major disaster was declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act related to Hurricanes Katrina or Rita, and that were forced to close, relocate, or significantly curtail their activities as a result of damage directly caused by the hurricanes.

2. *Cost Sharing or Matching:* This program does not require cost sharing or matching.

IV. Application and Submission Information

1. *Address to Request Application or Pre-application Package:* Cassandra Courtney, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006–8544. Telephone: (202) 502–7506 or by e-mail: *HERA2@ed.gov or Cassandra.Courtney@ed.gov*.

If you use a telecommunications device for the deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application or pre-application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Pre-Application: IHEs intending to submit an application for a Hurricane Education Recovery Award must first complete and submit a pre-application data information form from which institutional allotments will be calculated. Data forms and instructions can be downloaded from: *http://www.ed.gov/OPE* (click on the Hurricane Education Recovery Awards link). Complete the form and send it to: *http://HERA2.ed.gov* by the date established under Pre-Application Deadline. Within one week of the Pre-Application Deadline, the Department will calculate the applicant IHE's allotment and e-mail the amount back to the contact person identified on the form. IHEs will then have until August 17, 2007 to submit their application and budget through the e-Application system.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to the equivalent of no more than 25 pages, using the following standards:

- 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 in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. Applications submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the curricula vitae (3-page, condensed vitae are preferred), the bibliography, or the letters of support. However, you must include all of the application narrative in Part III.

We will reject your application if—

- You apply these standards and exceed the page limit; or
- You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: July 16, 2007.

Deadline for Transmittal of Pre-Application: July 27, 2007.

Deadline for Transmittal of Applications: August 17, 2007.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the Hurricane Education Recovery Awards must be submitted electronically using the Governmentwide Grants.gov Apply site at: *http://www.Grants.gov.* Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement *and* submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement.*

You may access the electronic grant application for Hurricane Education Recovery Awards at: *http://www.Grants.gov* . You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.326, not 84.326A).

Please note the following:

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by Grants.gov are date and time stamped. Your application must be fully uploaded and submitted, and must be date and time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date and time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at: *http://eGrants.ed.gov/help/GrantsgovSubmissionProcedures.Pdf.*
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) Registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D-U-N-S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).
- You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a

second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Cassandra Courtney, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 1990 K Street, 6th Floor, NW., Washington, DC 20006–8544, FAX: (202) 502–7877.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail*.

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.938H, 400 Maryland Avenue, SW., Washington, DC 20202–4260 or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center, Stop 4260, Attention: CFDA Number 84.938H, 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery*.

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: CFDA Number 84.938H, 550 12th Street, SW., Room 7041, Potomac Center Plaza,Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other

requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to: *http://www.ed.gov/fund/grant/apply/appforms/appforms.html*.

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Cassandra Courtney, Fund for the Improvement of Postsecondary Education, U.S. Department of Education, 1990 K Street, NW., 6th Floor, Washington, DC 20006. Telephone: (202) 502–7506 or by e-mail: *Cassandra.Courtney@ed.gov* or *HERA2@ed.gov*.

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package 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** in section VII in this notice.

Electronic Access to This Document: You can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Dated: July 11, 2007.

James F. Manning,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. E7–13728 Filed 7–13–07; 8:45 am]

BILLING CODE 4000–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 2 p.m. on Wednesday, July 18, 2007, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, pursuant to section 552b(c)(2), (c)(4), (c)(6), (c)(8), (9)(A)(ii) and (9)(B), Title 5, United States Code, to consider matters relating to the Corporation's supervisory and corporate activities.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at (202) 898–7122.

Dated: July 11, 2007.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E7–13726 Filed 7–13–07; 8:07 am]

BILLING CODE 6714–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—06/11/2007			
20071367	Littlejohn Fund III, L.P	Intertape Polymer Group Inc	Intertape Polymer Group Inc.
20071374	Liberty Mutual Holding Company Inc	Ohio Casualty Corporation	Ohio Casualty Corporation.
20071390	Ascension Health	Marian Health System	Via Christi Health System, Inc.
20071391	Commonwealth Bank of Australia	Joseph D. Samberg	Dimensional Music Publishing, LLC.
20071410	Audax Private Equity Fund II, L.P	AIS Holdings Corp	AIS Holdings Corp.
20071421	National Grid plc	KeySpan Corporation	KeySpan Corporation.
20071436	Microsoft Corporation	SAVVIS, Inc	SAVVIS Communication Corporation.

Trans #	Acquiring	Acquired	Entities
20071438	Providence Equity Partners VI (Umbrella US) LP.	Clear Channel Communications, Inc	ABO Broadcasting Operations, LLC, Ackerley Broadcasting Fresno, LLC, AK Mobile Television, Inc., Bel Meade Broadcasting, Inc., Capstar Radio Operating Company, Capstar TX Limited Partnership, CCB Texas Licenses, L.P., Central NY News, Inc., Citicasters Co., Clear Channel Broadcasting, Inc., Clear Channel Broadcasting Licenses, Inc., Clear Channel Investments, Inc.
20071444	Agilysys, Inc	Innovative Systems Design, Inc	Innovative Systems Design, Inc.
20071445	Edam Acquisition B.V	Telefonica, S.A	Endemol Investment Holding B.V.
20071447	Motorola, Inc	Modulus Video, Inc	Modulus Video, Inc.
20071449	J.C. Flowers I LP	Citigroup, Inc	The BISYS Insurance Services Holding Corp., BISYS Retirement Services Holding Corp., PJ Robb Variable, Inc., Tri-City Acquisition, Inc.
20071455	Citigroup Inc	The BISYS Group, Inc	The BISYS Group, Inc.
20071457	Behrman Capital III L.P	Randy Mooney, Trustee Appointer/Genesis Charities I/T	Covenant Health & Rehab of Vickburg, LP, Parkway North Associates Ltd. Partnership, Tapestry Concepts, LLC, Trinity Mission Health & Rehab of Connersville, L.P., Trinity Mission Health & Rehab of Edgefield, LP, Trinity Mission Health & Rehab of Holly, LP, Trinity Mission Health & Rehab of Midland, LP, Trinity Mission Health & Rehab of Picayune, LP, Trinity Mission Health & Rehab of Portland, LP, Trinity Mission Health & Rehab of Provo, LP, Trinity Mission New Paris Residential Care Facility, LP, Trinity Mission Wide Horizons Residential Care Facility, LP.
20071458	Behrman Capital III L.P	Rebecca J. Johnson, Trustee Appointer/LKJ Irrevocable Trust	Covenant Health & Rehab of Vicksburg, LP, Parkway North Associates Limited Partnership, Tapestry Concepts, LLC, Trinity Mission Health & Rehab of Connersville, LP, Trinity Mission Health & Rehab of Edgefield, LP, Holly LP, Trinity Mission Health & Rehab of Holly, LP, Trinity Mission Health & Rehab of Midland, LP, Trinity Mission Health & Rehab of Picayune, LP, Trinity Mission Health & Rehab of Portland, LP, Trinity Mission Health & Rehab of Roy, LP, Trinity Mission New Paris Residential Care Facility, LP, Trinity Mission Wide Horizons Residential Care Facility, LP.

Trans #	Acquiring	Acquired	Entities
20071459	Behrman Capital III L.P	L.P.N.H. Holdings Limited, LLC	Cornerstone Health & Rehab of Corinth, LLC, Crown Health & Rehab of Natchez, LLC, Crystal Health & Rehab of Greenwood, LLC, Dove Health & Rehab of Collierville, LLC, Grace Health & Rehab of Grenada, LLC, Joy Health & Rehab of Cleveland, LLC, Liberty Health & Rehab of Indianola, LLC, Oasis Health & Rehab of Yazoo City, LLC, Rainbow Health & Rehab of Memphis, LLC, Song Health & Rehab of Columbia, LLC, Tapestry Concepts, LLC, Trinity Mission Health & Rehab of Clinton, LLC, Trinity Mission Health & Rehab of Great Oaks, LLC, Trinity Mission Health & Rehab of Holly Springs, LLC, Trinity Mission of Burleson, LP, Trinity Mission of Charlottsville, L.P., Trinity Mission of Comfort, LP, Trinity Mission of Diboll, LP, Trinity Mission of Farmville, L.P., Trinity Mission of Granbury, LP, Trinity Mission of Hillsville, L.P., Trinity Mission of Italy, LP, Trinity Mission of Rocky Mount, L.P., Trinity Mission of Winnsboro, LP.
20071460	Visa Europe Limited	Visa Inc	Visa Inc., Clinton Partners, L.L.C., MSCHCA of Pennsylvania, L.P., VACH, LP, VAF, LP, VARM, LP.
20071461	Behrman Capital III L.P	Mid-South Associates, LLC	
20071467	Arlington Capital Partners II, L.P	Radio One, Inc	Blue Chip Broadcasting Licenses, Ltd., Blue Chip Broadcasting, Ltd., Hawes-Saunders Broadcast Properties, Inc., Radio One of Dayton Licenses, LLC.
20071469	Eni S.p.A	Dominion Resources, Inc	Dominion Exploration & Productions, Inc.
20071475	Blackstone Capital Partners V L.P	Alliance Data Systems Corporation	Alliance Data Systems Corporation.
Transactions Granted Early Termination—06/12/2007			
20071379	Honeywell International Inc	Dimensions International, Inc	Dimensions International, Inc.
20071450	CACI International Inc	The Wexford Group International, Inc	The Wexford Group International, Inc.
20071478	Regis Corporation	EEG, Inc	EEG, Inc.
20071482	Resource America, Inc	Pacific Capital Bancorp	Pacific Capital Bancorp.
20071483	Littlejohn Fund III, L.P	Van Houtte Inc	Van Houtte Inc.
20071502	Franklin K. Schoeneman	EEG, Inc	EEG, Inc.
Transactions Granted Early Termination—06/13/2007			
20071395	Dr. Phillip Frost	Ladenburg Thalmann Financial Services Inc.	Ladenburg Thalmann Financial Services Inc.
20071414	Medical Staffing Network Holdings, Inc.	Carlyle Partners III, L.P	InteliStaf Holdings, Inc.
Transactions Granted Early Termination—06/14/2007			
20071399	CG Investor, LLC	DaimlerChrysler AG	DaimlerChrysler Holding LLC
20071402	Apax Europe VII–B, L.P	2003 TIL Settlement	The Gale Group Inc, Thomson Global Resources, Thomson Learning Holdings B.V., Thomson Learning Inc.
20071427	Windjammer Senior Equity Fund III, L.P.	ShoreView Capital Partners, L.P	SV–BBB Holdings, Inc.
20071430	Taiheiyo Cement Corporation	ShoreView Capital Partners, L.P	Shoreview-Angelle Holdings Corp.
20071484	Providence Equity Partners V L.P	DRI Holdings, Inc	DRI Holdings, Inc.
Transactions Granted Early Termination—06/15/2007			
20071394	Castlerigg International Limited	Fair Isaac Corporation	Fair Isaac Corporation.

Trans #	Acquiring	Acquired	Entities
20071485	Cardtronics, Inc	Seven & i Holdings Co., Ltd	7-Eleven, Inc., Vcom Financial Services, Inc.
20071492	SEI–TCV Holding Corporation	John W. O'Brien	Harmonic Investment Management, Inc. R.J. O'Brien Alternative Asset Management, Inc., R.J. O'Brien & Associates, Inc., R.J. O'Brien Financial, LLC, R.J. O'Brien Foreign Exchange, Inc., R.J. O'Brien Fund Management, Inc., R.J. O'Brien International, Ltd., R.J. O'Brien Securities, Inc.
20071494	AG Private Equity Partners III, L.P	National Home Health Care Corp	National Home Health Care Corp.
20071499	Owl Creek Overseas Fund, Ltd	Lacy J. Harber	TIMCO Aviation Services, Inc.
20071500	JLL Partners Fund V, L.P	GTCR Fund VII, L.P	Skylight Financial, Inc.
20071509	Leeds Equity Partners IV, L.P	eInstruction Holdings, LLC	eInstruction Holdings, Inc.
20071513	Fenway Partners Capital Fund III, L.P.	1–800 CONTACTS, INC	1–800 CONTACTS, INC.
20071527	Prospect Medical Holdings, Inc	Samuel S. Lee	Alta Healthcare System, Inc.
20071528	Prospect Medical Holdings, Inc	David & Alexa Topper Family Trust, U/D/T September 29, 1997.	Alta Healthcare System, Inc.
20071529	MedAssets, Inc	Joseph H. Davi	MD–X Services, Inc., MD–X Solutions, Inc., MD–X Strategies, Inc., Mid-X Systems, Inc., Solutions Services and Strategies, the ''MD–X Companies''.
Transactions Granted Early Termination—06/18/2007			
20071355	Mustang Holding Company Inc	SLM Corporation	SLM Corporation.
20071373	Comcast Corporation	Cablevision Systems Corporation	Pacific Regional Programming Partners.
20071403	Husky Energy Inc	Valero Energy Corporation	Lima Refining Company.
20071435	Emerson Electric Co	Stratos International, Inc	Stratos International, Inc.
20071491	Isis Pharmaceuticals, Inc	Symphony Capital Partners, L.P	Symphony Genisis, Inc.
20071495	Associated Wholesale Grocers, Inc	AB Acquisition LLC	ABS DFW Investor LLC, ABS DFW Lease Investor LLC, ABS DFW Lease Owner LLC, ABS DFW Owner LLC, ABS TX Investor LP, Albertson's LLC.
20071525	Tricor Pacific Capital Partners (Fund IV).	Antonio Accornero	CPI Card Group-Nevada, Inc., CPI Holding Co.
Transactions Granted Early Termination—06/19/2007			
20070976	Meggitt PLC	K&F Industries Holdings, Inc	K&F Industries Holdings, Inc.
20071474	NHC Leveraged Employee Stock Ownership Plan & Trust.	National HealthCare Corporation	National HealthCare Corporation.
Transactions Granted Early Termination—06/20/2007			
20071420	Henry Ford Health System	Trinity Health—Michigan	Mercy Mount Clemens Corporation, Chemtura Canada Co./CIE, Chemtura Corporation, S.A. de C.V., Chemtura Industria Quimica do Brasil Limitada, Chemtura Netherlands B.V., Monochem, Inc.
20071456	Payless ShoeSource, Inc	The Stride Rite Corporation	The Stride Rite Corporation.
20071472	Oil States International, Inc	R.H. McGee	Schooner International, Inc., Schooner Petroleum Services, Inc.
20071498	Avista Capital Partners, L.P	Geokinetics, Inc	Geokinetics, Inc.
20071514	Catholic Health Initiatives	Marian Health System, Inc	Saint Clare's Health System.
20071521	Atlas America, Inc	Atlas Pipeline Mid-Continent WestOk, LLC.	Atlas Pipeline Mid-Continent WestOk, LLC.
20071522	Atlas America, Inc	Atlas Pipeline Mid-Continent WestTex, LLC.	Atlas Pipeline Mid-Continent WestTex, LLC.
20071524	SEACOR Holdings Inc	Nabors Industries Ltd	Nabors US Finance LLC.
20071526	Quintana Energy Partners, L.P	Industrial Growth Partners II, L.P	AmerCable Incorporated.
20071531	The Bear Stearns Companies Inc	The Williams Companies, Inc	Williams Power Company, Inc.
Transactions Granted Early Termination—06/21/2007			
20071454	Pearson plc	eCollege.com	eCollege.com.

Trans #	Acquiring	Acquired	Entities
Transactions Granted Early Termination—06/22/2007			
20071470	Oracle Corporation	Agile Software Corporation	Agile Software Corporation.
20071481	Schering-Plough Corporation	Novacea, Inc	Novacea, Inc.
20071489	David and Gail Liniger	Donald and Glenda Hachenberger	RE/MAX Carolina, Inc., RE/MAX of Florida, Inc.
20071501	ValueAct Capital Master Fund, L.P	Advanced Medical Optics, Inc	Advanced Medical Optics, Inc.
20071534	Wind Point Partners VI, L.P	Wicks Communications & Media Partners, L.P.	Wicks Business Information, LLC.
20071535	W. Andrew Adams	National HealthCare Corporation	National HealthCare Corporation.
20071541	The Williams Companies, Inc	BASF Aktiengesellschaft	BASF Corporation.
20071545	AIF VI Euro Holdings L.P	EGL, Inc	EGL, Inc.
20071546	Steel Dynamics, Inc	The Resolute, Fund, L.P	The Techs Holdings, Inc.
20071547	ValueAct Capital Master Fund, L.P	Acxiom Corporation	Acxiom Corporation.
20071555	Champion Industries, Inc	FIF III Liberty Holding LLC	GMI, GMWV.
20071557	NC VI Limited	Cruise Luxco 1 S.a.r.l	Thule AB.
20071559	Sprint Nextel Corporation	St. Cloud Wireless Holding, LLC	Northern PCS Services, LLC.
20071563	Sensata Investment Company, S.C.A	William Blair Capital Partners VII QP, L.P.	Airpax Holdings, Inc.
20071570	Blackstone Capital Partners V L.P	Lindsay Goldberg & Bessemer L.P	Alliant Holdings I, Inc.
20071571	Wachovia Corporation	A.G. Edwards, Inc	A.G. Edwards, Inc.
20071575	Macquarie Infrastructure Company Trust.	San Jose Jet Center, Inc	SJJC Aviation Services, LLC.
20071586	Cenveo, Inc	Christopher N. Madison and Lois A. Madison.	Madison/Graham ColorGraphics, Inc.
Transactions Granted Early Termination—06/25/2007			
20071572	Gryphon Partners III, L.P.	Sheplers, Inc	Sheplers, Inc.
Transactions Granted Early Termination—06/27/2007			
20071480	Williams Partners L.P	Discovery Producer Services LLC	Discovery Producer Services LLC.
20071508	Providence Equity Partners VI L.P	WCAS IX	US Investigations Services, Inc.
20071515	Universal Compression Partners, L.P	Universal Compression Holdings, Inc..	UCI Compressor Holding, L.P., UCO Compression 2005, Universal Compression 2005.
20071538	AmQuip Holdings LLC	Joseph L. Wesley, Sr	AmQuip Corporation, Boston AmQuip LLC, Elliott AmQuip Corporation.
Transactions Granted Early Termination—06/28/2007			
20071441	Danaher Corporation	ChemTreat, Inc.	ChemTreat, Inc.
20071451	Highstar Harbor Holdings III, Inc	Christopher R. Redlich, Jr	MTC Holdings Starboard Insurance Company.
20071479	San Faustin N.V	Grupo Imsa, S.A.B. de C.V	Grupo Imsa, S.A.B. de C.V.
20071532	Stelar Holding Corp	WDF Holding Corp	WDF Holding Corp.
20071536	MMI Investments, L.P	Acxiom Corporation	Acxiom Corporation.
20071537	ABRY Partners V, L.P	Bursten Family Limited Partnership II	Cyrus Networks, LLC, Southwest Freeway Building, L.P.
20071556	WDF Holding Corp	Stelar Holding Corp	Stelar Holding Corp.
20071565	2003 Riverside Capital Appreciation Fund, L.P.	Peter J. Roth	Altelicon, Inc., Hyperlink Technologies, Inc., Sharper Concepts, Inc.
20071568	Rexam PLC	Owens-Illinois, Inc	OI Plastic Products FTS Inc.
20071574	Sierra Holdings Corp	Avaya Inc	Avaya Inc.
Transactions Granted Early Termination—06/29/2007			
20071564	DENTSPLY International Inc	Paul A. Seid	Sultan Healthcare, Inc.
Transactions Granted Early Termination—07/02/2007			
20071462	Robert Miller Spousal Trust	Exar Corporation	Exar Corporation.
20071468	Graeme Hart	AT&T Inc	Blue Ridge Holding Corp.
20071510	Marmon Holding, Inc	Capstone Advisory Group, LLC	KX Industries, Limited Partnership, KX Realty LLC.
20071548	BE III 6 F.C.P.R	Citigroup Inc	Designed Metal Connections Inc.
20071576	Audax Private Equity Fund II, L.P	Metal Resources LLC	Michigan Seamless Tube LLC.
20071578	Peper Jaffray Companies	Charles D. Walbrandt	Fiduciary Asset Management, LLC.
20071579	CONSOL Energy Inc	AMVEST Corporation	AMVEST Corporation.
20071580	C/R Stallion Investment Partnership, L.P.	Richard E. Agee	Bayou Tank Company, Bayou Tank Services, Ltd.
20071582	PNM Resources, Inc	Dynegy Inc.	CoGen Lyondell, LLC.

Trans #	Acquiring	Acquired	Entities
20071583	William H. Gates, III	Dynegy Inc	CoGen Lyondell, LLC.
20071590	News Corporation	Photobucket.com, Inc	Photobucket.com, Inc.
20071593	Kellwood Company	Hanna Andersson Corporation	Hanna Andersson Corporation.
20071597	Perry Partners International, Inc	Universal American Financial Corp ...	Universal American Financial Corp.
20071598	Perry Partners, L.P	Universal American Financial Corp ...	Universal American Financial Corp.
20071601	Pro Acquisition Corporation	The Home Depot, Inc	CND Holdings, Inc., HD Supply, Inc., Homer TLC, Inc.
20071607	TD AMERITRADE Holding Corporation.	Fiserv, Inc	Fiserv Trust Company.
Transactions Granted Early Termination—07/03/2007			
20070837	Hanover Compressor Company	Universal Compression Holdings, Inc	Universal Compression Holdings, Inc.
20070838	Universal Compression Holdings, Inc	Hanover Compressor Company	Hanover Compressor Company.
20071506	KASLION S.a.r.L	DSP Group Inc	DSP Group Inc.
20071511	J&F Participacoes S.A	Hicks, Muse, Tate & Furst Equity Fund V, L.P.	Swift Foods Company.
20071588	Cleveland-Cliffs Inc	PinnOak Resources, LLC	PinnOak Resources, LLC.
20071599	C/R Stallion Investment Partnership, L.P.	Terry G. Bailey	Salty's Manufacturing, Ltd., Salty's Well Hill No. 1, Ltd., Salty's Well Parker No. 1, Ltd., Salty's Well Service, Ltd.
20071602	C/R Stallion Investment Partnership, L.P.	Envirovac, Ltd	Salty's Manufacturing, Ltd., Salty's Well Hill No. 1, Ltd., Salty's Well Johnson No. 1, Ltd., Salty's Well Johnson No. 2, Ltd., Salty's Well Johnson No. 3, Ltd., Salty's Well Johnson No. 4, Ltd., Salty's Well Nacogdoches 1, Ltd., Salty's Well Panola 1, Ltd., Salty's Well Parker No. 1, Ltd., Salty's Well Service, Ltd., Salty's Well Shelby No. 1, Ltd.
Transactions Granted Early Termination—07/05/2007			
20071519	Carlyle Partners IV, L.P	JP Morgan Chase & Co	Niagara Holdings, Inc.
Transactions Granted Early Termination—07/06/2007			
20071520	Saudi Basic Industries Corporation ...	General Electric Company	GE Entities.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representative, or Renee Hallman, Contact Representative. Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room H–303, Washington, DC 20580, (202) 326–3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 07–3435 Filed 7–13–07; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Misconduct in Science

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

Kristin Roovers, Ph.D., University of Pennsylvania: Based on an investigation conducted by the University of Pennsylvania (UP) and additional analysis and information obtained by the Office of Research Integrity during its oversight review, the U.S. Public Health Service (PHS) found that Kristin Roovers, Ph.D., former postdoctoral fellow, Departments of Medicine, Cell and Developmental Biology, and Pharmacology, and Howard Hughes Medical Institute, and former graduate student, Department of Pharmacology, UP, engaged in misconduct in science in research funded by National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH), grants R01 HL061567, P50 HL057278, and T32 HL07873, National Institutes of Diabetes and Digestive and Kidney Diseases (NIDDK), NIH, grants P30 DK52574 and R01 DK066886, National Cancer Institute (NCI), NIH, grant R01 CA72639, and National Institute of General Medical Sciences (NIGMS), NIH, grants R01 GM48224, R01 GM58224, R01 GM51878, and R01 GM69064.

Dr. Roovers' manipulations and falsification of data were extensive, encompassing 19 panels of Western blot data, appearing in 11 figures in 3 publications from her research as a graduate student and her first postdoctoral position and in 9 panels of immunoblot data in 8 figures of an unpublished manuscript.

Specifically, the findings involved falsification by duplication and reuse of immunoblot data to misrepresent the results as data from different experiments that had been reported in the following manuscript and three publications:

• Figures 2C, 3C, 4D, 4E, 6C, 7B, and supplement Figures 1, 2B, and 3B in a

manuscript submitted to the *Journal of Clinical Investigation* entitled: ''Akt1 promotes physiologic, but antagonizes pathologic, cardiac growth.''

• Figures 3A, 3C, and 4A in: Welsh, C.F., Roovers, K., Villanueva, J., Liu, Y., Schwartz, M.A., & Assoian, R.K. ''Timing of cyclin D1 expression within G1 phase is controlled by Rho.'' *Nature Cell Biology* 3(11):950–957, 2001.

• Figures 1, 2A, 2B, 3A, 3C, 4A, 4B, 6C, 6D, and 6E in: Roovers, K., & Assoian, R.K. ''Effects of rho kinase and actin stress fibers on sustained extracellular signal-regulated kinase activity and activation of G(1) phase cyclin-dependent kinases.'' *Mol. Cell Biol.* 23(12):4283–4294, 2003. Retracted in *Mol. Cell Biol.* 26(13):5203, July 2006.

• Figures 1C, 2C, 5B, 5D, 6B and 6D in: Roovers, K., Klein, E.A., Castagnino, P., & Assoian, R.K. ''Nuclear translocation of LIM kinase mediates Rho-Rho kinase regulation of cyclin D1 expression.'' *Developmental Cell 5* (2):273–284, 2003. Retracted in *Developmental Cell* 10(5):681, May 2006.

Corrections were recommended by UP for the *Nature Cell Biology* paper.

Dr. Roovers' falsified Western blot data from the publications in *Nature Cell Biology* and from *Developmental Cell* were included in NIH grant applications CA 72639–07 and GM 69064–01.

ORI has implemented the following administrative actions for a period of five (5) years, beginning on June 7, 2007:

(1) Dr. Roovers is debarred from eligibility for any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government referred to as ''covered transactions'' as defined in HHS' implementation of OMB Guidelines to Agencies on Governmentwide Debarment and Suspension at 2 CFR part 376, *et seq.*; and

(2) Dr. Roovers is prohibited from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

Chris B. Pascal,

Director, Office of Research Integrity.

[FR Doc. E7–13703 Filed 7–13–07; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–06BM]

Agency Forms Undergoing Paperwork; Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to: *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974.

Notice of Correction

Title of Project

Randomized Controlled Trial of Routine Screening for Intimate Partner Violence—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Description of Correction

A 30-day **Federal Register** Notice was published on June 25, 2007 (Vol. 72, No. 121, pp. 34691–34692) describing proposed activities with total estimated annualized burden of 717.7 hours. The annualized total burden hour estimate is correct, however, due to a clerical oversight, the table of Estimated Annualized Burden Hours contained non-annualized figures for the Number of Respondents (i.e., project totals). The corrected table appears below. The total estimated annualized burden hours are 717.7.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Women Seeking Health Care Services	Eligibility Script for Pretest	70	1	1/60
	Baseline Questionnaire for Pretest	65	1	15/60
	Follow-up Questionnaire Pretest	59	1	12/60
	Eligibility Script for Main Study	1,533	1	1/60
	Baseline Questionnaire for Main Study	1,227	1	17/60
	Follow-up Questionnaire Main Study	860	1	22/60

Dated: July 9, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–13730 Filed 7–13–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: National Evaluation of the Protection and Advocacy for Individuals with Mental Illness (PAIMI) Program—NEW

In recognition that systematic evaluation of this and other government programs are part of good management

and accountability, the Substance Abuse and Mental Health Services Administration's Center for Mental Health Services (CMHS) will conduct an independent process evaluation of the PAIMI Program. CMHS will employ information that is routinely collected under existing program requirements and is also expected to collect new, additional data that are also necessary for the conduct of the evaluation. [On January 1, each eligible State protection and advocacy (P&A) system is required to transmit to the Secretary and head of the State Mental Health Agency, in which the system is located, a report describing its activities, accomplishments, and expenditures during the most recently completed fiscal year. None of the data collection activities described above will be redundant with these existing reporting requirements.] The evaluation plan includes gathering information about the PAIMI program from persons with different perspectives. Accordingly, CMHS proposes to proceed with the following new data collection activities:

(1) Survey interviews with the Executive Directors of each of the Protection and Advocacy Grantees, as well as other staff whom they may ask to join them in these interviews to include:

a. Characteristics and shared functions between the P&A Governing Board and the PAIMI Advisory Council.

b. Processes to establish PAIMI goals and priorities.

c. Federal support of the PAIMI program.

d. Federal oversight of the PAIMI program.

e. Organization and staffing of PAIMI responsibilities within the P&A.

f. Procedures for quality management.

g. Background of respondent.

(2) Surveys of and focus groups with persons who receive services from PAIMI programs to include:

a. Access to PAIMI services.

b. Quality of services provided to clients.

c. Satisfaction with services.

d. Background of respondent.

(3) Surveys of the Chairs of the Advisory Councils of each PAIMI Grantee to include:

a. Characteristics and shared functions between the P&A Governing Board and the PAIMI Advisory Council.

b. Processes to establish PAIMI goals and priorities and assessment of those priorities.

c. Organization and staffing of PAIMI responsibilities within the P&A.

d. Quality of services provided to clients.

e. Background of respondent.

(4) Surveys of the Program Directors of State Mental Health Authorities to include:

a. Types of communication between the State Mental Health Authority and the PAIMI program.

b. Processes to establish PAIMI goals and priorities and assessment of those priorities.

c. Relationship between the State Mental Health Authority and the PAIMI program.

d. Role of the PAIMI program in the mental health advocacy community.

e. Background of respondent.

(5) Survey of directors of other organizations who are likely to be familiar with or collaborate in PAIMI activities in each State; including family and consumer groups and other mental health advocacy organizations to include:

a. Types of interaction between the State Mental Health Authority and the PAIMI program.

b. Processes to establish PAIMI goals and priorities and assessment of those priorities.

c. Relationship between the organization and the PAIMI program.

d. Access to and quality of services provided to PAIMI recipients.

e. Role of the PAIMI program in the mental health advocacy community.

f. Background of respondent.

The PAIMI program has never undergone an independent evaluation. The approach being used is to conduct survey interviews with a cross-section of five primary Stakeholder groups connected to the PAIMI program, including Program Directors/staff, Clients/Recipients of services, PAIMI Advisory Council Chairs, Directors of State Mental Health Authorities, and Directors of Other Mental Health Advocacy Organizations in an effort to obtain a representative sample of viewpoints about the PAIMI program. The surveys have been developed to include questions relevant to each of the respective Stakeholder groups named above and range from 22 questions to as many as 88 questions. Depending on the Stakeholder group, respondent surveys are expected to take from thirty minutes up to two hours to complete.

CMHS also intends to conduct an outcome evaluation of the PAIMI program. SAMHSA is soliciting comments on how best to conduct such an evaluation. Comments should address how an evaluation can be best designed to assess the impact of the program, as measured by its GPRA measures, SAMHSA's National Outcome Measures, and other outcome measures. Commenters are advised to refer to the OMB document ''What Constitutes Strong Evidence of a Program's Effectiveness?'', available at *http://www.whitehouse.gov/omb/part/index.html,* for OMB guidance on program evaluations.

The burden estimate for conducting the surveys under the evaluation plan for the PAIMI Program is as follows:

Form name	No. of respondents	Responses per respondent	Total responses	Hours per response (hours)	Total hour burden (hours)
Executive Director Interview	20	1	20	2	40
PAIMI Advisory Chair Survey	20	1	20	1	20
State Mental Health Director Survey	20	1	20	1	20
State Mental Health Legal Counsel	20	1	20	1	20
Other Mental Health Advocacy Org Director Survey	20	1	20	1	20
PAIMI Client Survey	72	1	72	½	36
Total	172		172		156

Written comments and recommendations concerning the proposed information collection should be sent by August 15, 2007 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: June 25, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E7–13714 Filed 7–13–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–28578]

Collection of Information Under Review by Office of Management and Budget; OMB Control Number: 1625–0089

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the U.S. Coast Guard intends to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB) requesting re-instatement, with change, of a previously-approved collection of information: 1625–0089, National Recreational Boating Survey. Before submitting this ICR to OMB, the Coast Guard is inviting comments as described below.

DATES: Comments must reach the Coast Guard on or before September 14, 2007.

ADDRESSES: To make sure your comments and related material do not enter the docket [USCG–2007–28578] more than once, please submit them by only one of the following means:

(1) By mail to the Docket Management Facility (M–30), U.S. Department of Transportation (DOT), West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(2) By delivery to room W12–140 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.

(3) By fax to the Facility at (202) 493–2298.

(4) Electronically through the Web site for the Docket Management System (DMS) at: *http://dms.dot.gov.*

The Docket Management 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 W12–140 on the West Building Ground Floor level, 1200 New Jersey Avenue, SE., 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 through this docket on the Internet at: *http://dms.dot.gov*, and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 10–1236 (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is 202–475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone 202–475–3523, or fax 202–475–3929, for questions on these documents; or telephone Ms. Renee V. Wright, Program Manager, Docket Operations, 202–366–9826, for questions on the docket.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you provided. We have an agreement with DOT to use the Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number [USCG–2007–28578], indicate the specific section of the document to which each comment applies, providing a reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: Go to *http://dms.dot.gov* to view comments and documents mentioned in this notice as being available in the docket. Conduct a simple search using the docket number. You may also visit the Docket Management Facility in room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in 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 Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000, (65 FR 19477), or you may visit *http://dms.dot.gov.*

Information Collection Request

Title: National Recreational Boating Survey.

OMB Control Number: 1625–0089.

Summary: The Coast Guard National Recreational Boating Survey collects data on recreational boating participation and exposure to hazards. The goal is for the Office of Boating Safety to draw a general statistical profile of the U.S. recreational boating population. Of particular importance will be statistics on the type of boats used, the activities these boats are used for, boat operators' knowledge of safety measures, and the duration of a typical boating day (referred to as ''exposure''). Exposure data will be used to derive a reliable measure of the risk associated with recreational boating that can be used in all jurisdictions.

Need: The Federal Boat Safety Act of 1971 determines the framework of the Coast Guard recreational boating safety program. This program as set forth in 46 U.S.C., Chapter 131, requires the Coast Guard to ''encourage greater State participation and uniformity in boating safety efforts, and particularly to permit the States to assume a greater share of boating safety education, assistance, and enforcement activities.'' See 46 U.S.C. 13102. The Coast Guard Office of Boating Safety achieves these goals by providing timely and relevant information on boating activities that occur in each respective jurisdiction. The boating information provided by the Coast Guard enables each State agency to tailor and implement safety initiatives addressing specific needs of boaters in local jurisdictions. The primary objective of this collection is to provide the Coast Guard with the required information in a format suitable to effectively manage the program.

Respondents: Recreational boating participants and owners of recreational vessels.

Frequency: Every 2 years.

Burden Estimate: This is a bi-ennial requirement. In the year the survey is conducted, the burden is estimated to be 67,619 hours.

Dated: July 3, 2007.

D.T. Glenn,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers and Information Technology.

[FR Doc. E7–13731 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1711–DR]

Kansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Kansas (FEMA–1711–DR), dated July 2, 2007, and related determinations.

DATES: *Effective Date:* July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 2, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Kansas resulting from severe storms and flooding beginning on June 26, 2007, and continuing, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of Kansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for emergency protective measures (Category B), limited to direct Federal assistance, under the Public Assistance program and any other forms of assistance under the Stafford Act that you deem appropriate subject to completion of Preliminary Damage Assessments.

Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777. If Other Needs Assistance and Hazard Mitigation are later warranted, Federal funding under those programs will be limited to 75 percent of the total eligible costs. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, Department of Homeland Security, under Executive Order 12148, as amended, Michael L. Karl, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Kansas to have been affected adversely by this declared major disaster:

Allen, Anderson, Bourbon, Butler, Chautauqua, Cherokee, Coffey, Cowley, Elk, Franklin, Linn, Miami, Montgomery, Neosho, Osage, Wilson, and Woodson Counties for Public Assistance Category B (emergency protective measures), limited to direct Federal assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individual and Household Housing; 97.049, Individual and Household Disaster Housing Operations; 97.050 Individual and Household Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–13704 Filed 7–13–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1710–DR]

New York; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of New York (FEMA–1710–DR), dated July 2, 2007, and related determinations.

DATES: Effective Date: July 2, 2007.

FOR FURTHER INFORMATION CONTACT: Peggy Miller, Disaster Assistance Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 2, 2007, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of New York resulting from severe storms and flooding on June 19, 2007, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). Therefore, I declare that such a major disaster exists in the State of New York.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act that you deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under Section 408 of the Stafford Act is later warranted, Federal funding under that program will also be limited to 75 percent of the total eligible costs. Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs, except for any particular projects that are eligible for a higher Federal cost-sharing percentage under the FEMA Public Assistance Pilot Program instituted pursuant to 6 U.S.C. 777. Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

The Federal Emergency Management Agency (FEMA) hereby gives notice that pursuant to the authority vested in the Administrator, under Executive Order 12148, as amended, William Vogel, of FEMA is appointed to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of New York to have been affected adversely by this declared major disaster:

Delaware County for Public Assistance.

All counties within the State of New York are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used

for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050, Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Administrator, Federal Emergency Management Agency.

[FR Doc. E7–13705 Filed 7–13–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–539, Revision of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–539, Application to Extend/Change Nonimmigrant Status. OMB Control Number: 1615–0003.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until September 14, 2007.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., 3rd floor, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at: *rfs.regs@dhs.gov.* When submitting comments by e-mail please add the OMB Control Number 1615–0003 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of an existing information collection.

(2) *Title of the Form/Collection:* Application to Extend/Change Nonimmigrant Status.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–539. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Individuals or households. This information collection is used to determine eligibility for the requested immigration benefit; the form will serve as a standardized request for the benefit sought and will ensure that basic information required to assess eligibility is provided by all applicants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 261,867 responses at 1 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 196,400 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/fdmspublic/component/main.* We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., 3rd floor, Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: July 10, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–13697 Filed 7–13–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities; Form I–130; Extension of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Form I–130, Petition for Alien Relative. OMB Control Number: 1615–0012.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until September 14, 2007.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., 3rd floor, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at: *rfs.regs@dhs.gov.* When submitting comments by e-mail please add the OMB Control Number 1615–0012 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of an existing information collection.

(2) *Title of the Form/Collection:* Petition for Alien Relative.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–130. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as brief abstract: Primary:* Individuals or households. This Form allows citizens or lawful permanent residents of the United States to petition on behalf of certain alien relatives who wish to immigrate to the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 183,034 responses at 1.5 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 274,551 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/fdmspublic/component/main.* We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., 3rd floor, Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: July 10, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–13698 Filed 7–13–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Form I–730, Revision of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–730, Refugee/Asylee Relative Petition; OMB Control No. 1615–0037.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on May 4, 2007, at 72 FR 25326. The notice allowed for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until August 15, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, NW., 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at: *rfs.regs@dhs.gov,* and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at: *kastrich@omb.eop.gov.*

When submitting comments by e-mail, please make sure to add OMB Control Number 1615–0037 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies' estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Information Collection.

(2) T*itle of the Form/Collection:* Refugee/Asylee Relative Petition.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–730; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. This form will be used by an asylee or refugee to file on behalf of his or her spouse and/or children provided that the relationship to the refugee/asylee existed prior to their admission to the United States. The information collected on this form will be used by USCIS to determine eligibility for the requested immigration benefit.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 86,400 responses at 35 minutes (.583) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 50,371 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please visit the USCIS Web site at: *http://www.regulations.gov/fdmspublic/component/main.* We may also be contacted at: USCIS, Regulatory Management Division, 111 Massachusetts Avenue, NW., 3rd floor, Suite 3008, Washington, DC 20529, telephone number 202–272–8377.

Dated: July 11, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E7–13699 Filed 7–13–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Single-family Home Construction in Charlotte County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of incidental take permit (ITP) and Habitat Conservation Plan (HCP). David Boxer (Applicant) requests an ITP pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The Applicant anticipates taking about 0.23 acre of Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) foraging and sheltering habitat incidental to lot preparation for the construction of a single-family home and supporting infrastructure in Charlotte County, Florida (Project). The destruction of 0.23 acre of foraging and sheltering habitat is expected to result in the take of one family of scrub-jays. The Applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Project to the scrub-jay.

DATES: Written comments on the ITP application and HCP should be sent to the South Florida Ecological Services Office (see **ADDRESSES**) and should be received on or before August 15, 2007.

ADDRESSES: Persons wishing to review the application and HCP may obtain a copy by writing the Service's South Florida Ecological Services Office. Please reference the Boxer SFL HCP in such requests. Documents will also be available for public inspection by appointment during normal business hours at the South Florida Ecological Services Office, 1339 20th Street, Vero Beach, Florida 32960.

FOR FURTHER INFORMATION CONTACT: Ms. Trish Adams, Fish and Wildlife Biologist, South Florida Ecological Services Office, Vero Beach, Florida (see **ADDRESSES**), telephone: 772–562–3909, extension 232.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE 156306–0, in such comments. You may mail comments to the Service's South Florida Ecological Services Office (see **ADDRESSES**). You may also comment via the Internet to *trish_adams@fws.gov*. Please also include your name and return address in your Internet message. If you do not receive a confirmation from us that we have received your Internet message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Finally, you may hand deliver comments to the Service office listed under **ADDRESSES**. 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 administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, 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.

Residential construction for the Boxer SFL HCP will take place within Section 24, Township 40, Range 21, Port Charlotte, Charlotte County, Florida. This lot is within scrub-jay occupied habitat.

The lot encompasses about 0.23 acre, and the footprint of the home, infrastructure, and landscaping preclude retention of scrub-jay habitat. In order to minimize take on site, the Applicant proposes to mitigate for the loss of 0.23 acre of scrub-jay habitat by contributing $12,190 to the Florida Scrub-jay Conservation Fund administered by The Nature Conservancy or acquisition of 0.46 acres of credit at a Service approved conservation bank. The Florida Scrub-jay Conservation Fund is earmarked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management.

The Service has determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and qualify as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). This preliminary information may be revised based on our review of public comments that we receive in response to this notice. Low-effect HCPs are those involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

The Service will evaluate the HCP and comments submitted thereon to determine whether the applications meet the requirements of section 10(a) of the Act (16 U.S.C. 1531 et. seq.). If it is determined that those requirements are met, the ITP will be issued for the incidental take of the Florida scrub-jay. The Service will also evaluate whether issuance of the section 10(a)(1)(B) ITP comply with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Authority: This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

Dated: July 9, 2007.

Paul Souza,

Field Supervisor, South Florida Ecological Services Office.

[FR Doc. E7–13711 Filed 7–13–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–079–07–1010–PH]

Notice of Public Meeting, Western Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), the Western Montana Resource Advisory Council will meet as indicated below.

DATES: The next two regular meetings of the Western Montana RAC will be held September 5, 2007 at the Dillon Field Office, 1005 Selway Drive, Dillon, Montana and November 28, 2007 at the Butte Field Office, 106 North Parkmont, Butte, Montana beginning at 9 a.m. The public comment period for both

meetings will begin at 11:30 a.m. and the meetings are expected to adjourn at approximately 3 p.m.

FOR FURTHER INFORMATION CONTACT: For the Western Montana RAC, contact Marilyn Krause, Resource Advisory Council Coordinator, at the Butte Field Office, 106 North Parkmont, Butte, Montana 59701, telephone 406–533–7617.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in western Montana. At the September 5 meeting, topics we plan to discuss include updates on the Butte Resource Management Plan, the Limestone Hills Legislative EIS, and the North Hills shooting issue. Other topics include an outline of the South Tobacco Roots Project, a briefing on the process for oil and gas leasing, and a briefing on travel management compliance. Recreation fee proposals from the Forest Service continue to be on the agenda. Topics for the November 28 meeting will be determined at the September 5 meeting.

All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided below.

July 9, 2007.

Richard M. Hotaling,

Field Manager.

[FR Doc. 07–3450 Filed 7–13–07; 8:45 am]

BILLING CODE 4310–$$–M

DEPARTMENT OF THE INTERIOR

National Park Service

30-Day Notice of Submission of Study Package to the Office of Management and Budget; Opportunity for Public Comment (OMB # 1024–0236)

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under provisions of the Paperwork Reduction Act of 1995 [44 U.S.C. 3507(a)(1)(D)] and 5 CFR part 1320, Reporting and Record Keeping Requirements, the National Park Service (NPS) invites public comments on a revision of a currently approved collection of information (OMB # 1024–0236). The 30-Day **Federal Register** Notice for this collection of information that was published on June 26, 2007 (Volume 72, Number 122, Pages 35065–35066), was published in error and should be recognized as an incorrect version. The correct publication of the 30-Day **Federal Register** Notice for this collection of information was published on June 25, 2007 (Volume 72, Number 121, Pages 34722–34723), and should be recognized as the correct version. If you have any questions or concerns regarding this matter, please contact Mr. Leonard E. Stowe, NPS, Information Collection Clearance Officer, 1849 C St., NW. (2605), Washington, DC 20240; or via e-mail at *leonard__stowe@nps.gov.*

Dated: July 9, 2007.

Leonard E. Stowe,

NPS, Information Collection Clearance Officer.

[FR Doc. 07–3448 Filed 7–13–07; 8:45 am]

BILLING CODE 4312–53–M

DEPARTMENT OF THE INTERIOR

National Park Service

Temporary Concession Contract for Great Sand Dunes National Park and Preserve, CO

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of proposed award of temporary concession contract (TC–GRSA003–07) for the Sale of Firewood and Incidental Visitor Items within Great Sand Dunes National Park and Preserve, CO.

SUMMARY: Pursuant to 36 CFR 51.24, public notice is hereby given that the National Park Service proposes to award a temporary concession contract for the sale of firewood and incidental visitor items within Great Sand Dunes National Park and Preserve, Colorado, for a term not to exceed 2 years and 8 months, from May 1, 2007 through December 31, 2009. This action is necessary to avoid an interruption of visitor services.

DATES: The term of the temporary concession contract (TC–GRSA003–07) will be effective (if awarded) May 1, 2007 through December 31, 2009, which is the date of termination of the existing concession contract, CC–GRSA003–07.

SUPPLEMENTARY INFORMATION: The temporary concession contract is proposed to be awarded to Cary and Geraldine Spannagel, who operate as Bristle Cone Pine Company, Inc., and are qualified persons pursuant to 36 CFR 51.3. Following termination of the prior concession contract (CC–GRSA003–07) within Great Sand Dunes National Park and Preserve in March 2007, the National Park Service proposes to award a temporary concession contract to Cary and Geraldine Spannagel, who operate as Bristle Cone Pine Company, Inc., to be effective May 1, 2007 through December 31, 2009, or a term of 2 years and 8 months. A new concession contract cannot be awarded in time to avoid the interruption of visitor services during the 2007–2009 operation seasons. The National Park Service has determined that a temporary contract is necessary to avoid interruption of visitor services and has taken all reasonable and appropriate steps to consider alternatives to avoid an interruption of visitor services.

This action is issued pursuant to 36 CFR 51.24(a). This is not a request for proposals and no prospectus is being issued at this time.

Dated: May 14, 2007.

Daniel N. Wenk,

Deputy Director, Operations.

[FR Doc. 07–3449 Filed 7–13–07; 8:45 am]

BILLING CODE 4312–53–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on the Medical Uses of Isotopes: Call for Nominations

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Call for nominations.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is advertising for nominations for the position of Agreement State representative on the Advisory Committee on the Medical Uses of Isotopes (ACMUI).

DATES: Nominations are due on or before August 30, 2007.

Nomination Process: Submit an electronic copy of nomination letters/letters of support, along with an electronic copy of the nominee's resume or curriculum vitae to Ms. Ashley M. Tull, amt*1@nrc.gov.* Please ensure that resume or curriculum vitae includes address, phone number, e-mail address, education, and the following information, if applicable: Certification, current state regulatory experience, professional association membership, committee involvement, and leadership activities.

FOR FURTHER INFORMATION CONTACT: Ashley M. Tull, U.S. Nuclear Regulatory Commission, Office of Federal and State Materials and Environmental Management Programs, Mail Stop T–8F3, Washington, DC 20555; telephone (301) 415–5294; e-mail *amt1@nrc.gov.*

SUPPLEMENTARY INFORMATION: The ACMUI advises NRC on policy and technical issues that arise in the regulation of the medical use of byproduct material. Responsibilities include providing comments on changes to NRC rules, regulations, and guidance documents; evaluating certain non-routine uses of byproduct material; providing technical assistance in licensing, inspection, and enforcement cases; and bringing key issues to the attention of NRC for appropriate action.

ACMUI members possess the medical and technical skills needed to address evolving issues. The current membership is comprised of the following professionals: (a) Nuclear medicine physician; (b) nuclear cardiologist; (c) medical physicist in nuclear medicine unsealed byproduct material; (d) therapy medical physicist; (e) radiation safety officer; (f) nuclear pharmacist; (g) two radiation oncologists; (h) patients' rights advocate; (i) Food and Drug Administration representative; (j) state government representative; and (k) health care administrator.

NRC is inviting nominations for the state government representative to the ACMUI. The position is currently vacant. Committee members serve a 4-year term and may be considered for reappointment to an additional term.

Nominees must be U.S. citizens and be able to devote approximately 160 hours per year to Committee business. Members who are not Federal employees are compensated for their service. In addition, non-Federal members are reimbursed travel, secretarial, and correspondence expenses. Full-time Federal employees are reimbursed travel expenses only.

Security Background Check: The selected nominee will undergo a thorough security background check, and security paperwork may take several weeks for the selected nominee to complete. The selected nominee will also be required to complete a financial disclosure statement to avoid conflicts of interest.

Dated at Rockville, Maryland this 10th day of July 2007.

For the U.S. Nuclear Regulatory Commission.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. E7–13723 Filed 7–13–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance; Availability

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft Regulatory Guide: Issuance, Availability.

FOR FURTHER INFORMATION CONTACT: NRC Senior Program Manager, Satish Aggarwal, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Telephone: (301) 415–6005 or e-mail *SKA@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) has issued for public comment a draft of a new guide in the agency's Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific problems or postulated accidents, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled ''Qualification of Safety-Related Cables and Field Splices for Nuclear Power Plants,'' is temporarily identified by its task number, DG–1132, which should be mentioned in all related correspondence. This proposed regulatory guide describes a method that the NRC staff considers acceptable for use in complying with the Commission's regulations in Title 10, Part 50, of the *Code of Federal Regulations* (10 CFR Part 50), ''Domestic Licensing of Production and Utilization Facilities.'' Specifically, 10 CFR Part 50 requires that structures, systems, and components that are important to safety in a nuclear power plant must be designed to accommodate the effects of environmental conditions [i.e., remain functional under postulated design-basis events (DBEs)]. Toward that end, the general requirements are contained in General Design Criteria 1, 2, 4, and 23 of Appendix A, ''General Design Criteria for Nuclear Power Plants,'' to 10 CFR Part 50. Augmenting those general requirements, the specific requirements pertaining to qualification of certain electrical equipment important to safety are contained in 10 CFR 50.49, ''Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants.'' In addition, Criterion III, ''Design Control,'' of Appendix B, ''Quality Assurance Criteria for Nuclear Power Plants,'' to 10 CFR Part 50, requires that where a test program is used to verify the adequacy of a specific design feature, it must include suitable qualification testing of a prototype unit under the most severe DBE.

This regulatory guide describes a method that the NRC considers acceptable for complying with the Commission's regulations for qualification of safety-related cables and field splices for nuclear power plants.

II. Further Information

The NRC is soliciting comments on Draft Regulatory Guide DG–1132. Comments may be accompanied by relevant information or supporting data, and should mention DG–1132 in the subject line. Comments submitted in writing or in electronic form will be made available to the public in their entirety through the NRC's Agencywide Documents Access and Management System (ADAMS). Personal information will not be removed from your comments. You may submit comments by any of the following methods:

1. Mail comments to: Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

2. E-mail comments to: *NRCREP@nrc.gov*. 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 A. Gallagher (301) 415–5905; e-mail *CAG@nrc.gov*.

3. Hand-deliver comments to: Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

4. Fax comments to: Rulemaking, Directives, and Editing Branch, Office of Administration, U.S. Nuclear Regulatory Commission at (301) 415–5144.

Requests for technical information about Draft Regulatory Guide DG–1132 may be directed to NRC Senior Program Manager, Satish Aggarwal, at (301) 415–6005 or *SKA@nrc.gov*.

Comments would be most helpful if received by September 14, 2007. Comments received after that date will

be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

Draft Regulatory Guide DG–1132 is available electronically through the NRC's public Web site under Draft Regulatory Guides in the Regulatory Guides document collection of the NRC's Electronic Reading Room at: *http://www.nrc.gov/reading-rm/doc-collections/*. The guide is also available in ADAMS (*http://www.nrc.gov/reading-rm/adams.html*), under Accession No. ML071440445.

In addition, regulatory guides are available for inspection at the NRC's Public Document Room (PDR), which is located at 11555 Rockville Pike, Rockville, Maryland. The PDR's mailing address is USNRC PDR, Washington, DC 20555–0001. The PDR can also be reached by telephone at (301) 415–4737 or (800) 397–4209, by fax at (301) 415–3548, and by e-mail to *PDR@nrc.gov*.

Please note that the NRC does not intend to distribute printed copies of Draft Regulatory Guide DG–1132, unless specifically requested on an individual basis with adequate justification. Such requests for single copies of draft or final guides (which may be reproduced) should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Reproduction and Distribution Services Section; by e-mail to *DISTRIBUTION@nrc.gov*; or by fax to (301) 415–2289. Telephone requests cannot be accommodated.

Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them. (5 U.S.C. 552(a)).

Dated at Rockville, Maryland, this 5th day of July, 2007.

For the U.S. Nuclear Regulatory Commission.

Andrea Valentin,

Chief, Regulatory Guide Branch, Division of Fuel, Engineering and Radiological Research, Office of Nuclear Regulatory Research.

[FR Doc. E7–13742 Filed 7–13–07; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Public Comment on the Negotiations for Compensatory Adjustments to U.S. Schedule of Services Commitments Under WTO General Agreement on Trade in Services (GATS) in Response to Notice of the United States of Intent To Modify Its Schedule Under Article XXI of the GATS

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comment.

SUMMARY: The Trade Policy Staff Committee (TPSC) gives notice that the Office of the United States Trade Representative (USTR) requests written submissions from the public concerning the negotiations for compensatory adjustments to U.S. Schedule of Services Commitments under WTO General Agreement on Trade in Services (GATS) in response to notice of the United States of intent to modify its schedule under Article XXI of the GATS.

On May 4, 2007, the United States filed with the WTO a notification to the Council for Trade in Services (CTS) pursuant to Article XXI:1(b) of the GATS stating the intention of the United States to modify its commitment for ''other recreational services'' to explicitly exclude gambling and betting services. In accordance with the procedural schedule set out in the WTO ''Procedures for the Implementation of Article XXI of the GATS: Modification of Schedules'' (WTO Document S/L/80) (''Article XXI Procedures''), on June 22 the United States received notice from eight WTO Members that they consider that their benefits under the GATS may be affected by the proposed modification. Consequently, consistent with Article XXI:2(a) of the GATS, the United States has entered into negotiations with these WTO Members with a view to reaching agreement on any necessary compensatory adjustment. The aim of such negotiations and agreement shall be to maintain a general level of mutually advantageous commitments not less favorable to trade than that provided for in the U.S. schedules of specific commitments prior to such negotiations.

DATES: Submissions must be received on or before noon, 30 days after publication.

ADDRESSES: Submissions by Electronic Mail: *FR0714@ustr.eop.gov*. Submissions by facsimile: Gloria Blue, Executive Secretary, Trade Policy Staff Committee (TPSC), Office of the USTR, at (202)395–6143.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning public comments, contact Gloria Blue, Executive Secretary, TPSC, Office of the USTR, 1724 F Street, NW., Washington, DC 20508, telephone (202)395–3475. Substantive questions concerning this review should be addressed to Thomas Fine, Director of Services Trade Negotiations, Office of the U.S. Trade Representative, telephone (202) 395–6875.

SUPPLEMENTARY INFORMATION:

Background Information

In the course of a WTO dispute resolution proceeding originally filed by Antigua and Barbuda in 2003, the United States' GATS schedule was found to have included a market access commitment covering Internet gambling based outside of the United States. This finding was a result of imprecision in the drafting of the 1994 U.S. GATS schedule, combined with the application of formal treaty interpretation rules under which a country's intent is not determinative. In fact, as even the WTO panel and Appellate Body recognized, gambling or betting services are generally prohibited or highly restricted in the United States for reasons of public morality, law enforcement and protection of minors and other vulnerable groups, and the United States never intended to make a GATS commitment covering gambling.

The dispute has now completed the compliance phase, and the report of the compliance panel was adopted by the WTO Dispute Settlement Body (DSB) on May 22, 2007.

In light of these developments in the WTO dispute, the United States has decided to make use of the established WTO procedures to correct its schedule in order to reflect the original U.S. intent—that is, to exclude gambling from the scope of the U.S. commitments under the GATS. The GATS, Article XXI, provides that when a Member modifies its services schedule, other Members who allege they will be affected by this action may make a claim for a compensatory adjustment to other areas of the GATS schedule. Under the Article XXI procedures, WTO Members had until June 22, 2007 to make such claims.

Prior to the applicable deadline, the following eight WTO Members notified the United States that they consider that their benefits under the GATS may be affected by the proposed modification and thus that the United States should enter into negotiations with a view to

reaching agreement on any necessary compensatory adjustment: Antigua and Barbuda, Australia, Canada, Costa Rica, the European Communities, India, Japan and Macao.

Consistent with these requests, the United States will begin consultations with these WTO Members. Under the Article XXI Procedures, the United States and those Members making claims have an initial period of three months to consult on any necessary compensatory adjustment. If these discussions are not successful in reaching a satisfactory conclusion for any claimant, that claimant may refer the issue to arbitration.

Requirements for Submissions

To ensure prompt and full consideration of responses, USTR strongly recommends that interested persons submit comments by electronic mail to the following e-mail address: *FR0714@ustr.eop.gov*. Persons making submissions by e-mail should use the following subject line: ''Services Article XXI Negotiations.'' Documents should be submitted in WordPerfect, MSWord, or text (.TXT) files. Supporting documentation submitted as spreadsheets is acceptable in Quattro Pro or Excel format. For any document containing business confidential information submitted electronically, the file name of the business confidential version should begin with the characters ''BC-'', and the file name of the public version should begin with the character ''P-''. The ''P-'' or ''BC-'' should be followed by the name of the submitted information. 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. 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 submissions will be placed in a file open to public inspection pursuant to 15 CFR 2003.5, except confidential business information exempt from public inspection in accordance with 15 CFR 2003.6 must be clearly marked ''Business Confidential'' at the top of each page, including any cover letter or cover page, and must be accompanied by a non-confidential summary of the confidential information. All public documents and non-confidential summaries will be available for public inspection 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 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 p.m.—4 p.m., Monday through Friday. Appointments must be scheduled at least 48 hours in advance.

Carmen Suro-Bredie,

Chairperson, Trade Policy Staff Committee.

[FR Doc. E7–13734 Filed 7–13–07; 8:45 am]

BILLING CODE 3190–W7–P

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of public use form review request submission to the Office of Management and Budget (OMB Control Number 0420–0001).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C., Chapter 35), the Peace Corps has submitted to the Office of Management and Budget (OMB) a request or approval of an information collection, OMB Control Number 0420–0001, the National Agency Check (NAC) Questionnaire for Peace Corps Volunteer Background Investigation. This is a renewal of an active information collection. The initial **Federal Register** notice was published on May 25, 2007, Volume 72, No. 101, p. 29356 for 60 days. Also available at GPO Access: *wais.access.gpo.gov.* No comments, inquiries or responses to the notice were received. A copy of the information collection may be obtained from Ms. Mada McGill, Peace Corps, Volunteer Recruitment and Selection CHOPS, 1111 20th Street, NW., Room 6105, Washington, DC 20526. Ms. McGill may be contacted by telephone at 202–692–1886. Comments on the form should also be addressed to the attention of Desk Officer for the Peace Corps, Office of Management and Budget, NEOB, Washington, DC 20503. Comments should be received on or before August 15, 2007 from publication in the **Federal Register**.

The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collections information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Information Collection Abstract

Title: National Agency Check (NAC) Questionnaire for Peace Corps Volunteer Background Investigation.

Need for and Use of This Information: The National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation is necessary to screen information from Federal sources about Peace Corps applicants who meet the minimum qualifications for service. Information provided by the investigation will be used by the Peace Corps' Office of Placement in order to make a final determination as to an applicant's/trainee's suitability for service. The National Agency Check Questionnaire for Peace Corps Volunteer Background Investigation supports the first goal of the Peace Corps as required by Congressional legislation.

Respondents: Potential Volunteers and Trainees.

Respondent's Obligation to Reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 2,500 hours.

b. Annual record keeping burden: 1,360 hours.

c. Estimated average burden per response: 15 minutes.

d. Frequency of response: one time.

e. Estimated number of likely respondents: 10,000.

f. Estimated cost to respondents: $4.59.

At this time, responses will be returned by mail.

Dated: July 5, 2007.

Wilbert Bryant,

Associate Director for Management.

[FR Doc. 07–3436 Filed 7–13–07; 8:45 am]

BILLING CODE 6051–01–M

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of Re-instatement of public use form review request to the Office of Management and Budget (OMB).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C., Chapter 35), the Peace Corps has submitted to the Office of Management

and Budget (OMB) a request for Re-instatement of OMB Control Number 0420–0510, the Peace Corps Health Status Review form (PC–1789S). This is a re-instatement of an expired information collection with revisions. The initial **Federal Register** Notice was published on May 25, 2007, Volume 72, No. 101, p. 29357 for 60 days. Also available at GPO Access: *wais.access.gpo.gov.* No comments, inquiries or responses to the notice were received. The revision includes an additional HIV question to the PC–1789S form Volunteer Medical Application: Health Status Review for Peace Corps Volunteers. The purpose of this information collection is necessary to ensure that Volunteers meet this medical eligibility requirement, all applicants for service must undergo physical and dental examination prior to Volunteer service to provide the information needed for clearance, and to serve as a reference for any future Volunteer medical clearance, and to serve as a reference for any future Volunteer disability claims. The Health Status Review form is used to review the medical history of individual applicants, and currently serving Volunteers. The results of these examinations are used to ensure that applicants for Volunteer service will, with reasonable accommodation, be able to serve in the Peace Corps without jeopardizing their health.

The purpose of this notice is to allow for public comment on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; 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; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

A copy of the information collection may be obtained from Ms. Emilie Deady, Peace Corps, Office of Volunteer Support, 1111 20th Street, NW., Room 5205, Washington, DC 20526. Ms. Deady may be contacted by telephone at 202–692–1509. Ms. Deady may be e-mailed at *edeady@peacecorps.gov.* Comments on the form should also be addressed to the attention of Ms. Deady and should be received on or before August 15, 2007.

Information Collection Abstract

Title: The Peace Corps Health Status Review form (PC–1789S).

Need for and Use of This Information: The Health Status Review is used to review the medical history of individual applicants, and currently serving Volunteers. The results of these examinations are used to ensure that applicants for Volunteer service will, with reasonable accommodation, be able to serve in the Peace Corps without jeopardizing their health.

Dated: July 5, 2007.

Wilbert Bryant,

Associate Director for Management.

[FR Doc. 07–3437 Filed 7–13–07; 8:45 am]

BILLING CODE 6051–01–M

PEACE CORPS

Proposed Information Collection Requests

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget (OMB Control Number 0420–0529).

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request for approval of information collections, OMB Control Number 0420–0529, the Peace Corps Week Brochure Registration Form (formerly called Peace Corps Day Brochure Registration Form). The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether their information will have practical use; the accuracy of the agency's estimate of the burden of the proposed collections information, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. The initial **Federal Register** notice was published on May 25, 2007, Volume 72, No. 101, p. 29356 for 60 days. Also available at GPO Access: *wais.access.gpo.gov.* No comments, inquiries or responses to the notice were received. A copy of the information collection may be obtained from Vivian Nguyen, Office of Domestic Programs, Peace Corps, 1111 20th Street, NW., Room 2121, Washington, DC 20526. Ms. Nguyen may be contacted by telephone at 202–692–1462 or 800–424–8580, Peace Corps Headquarters, ext 1462, by e-mail at *vnguyen@peacecorps.gov.* Comments on the form should also be addressed to the attention of Ms. Nguyen and should be received on or before August 15, 2007.

Information Collection Abstract

Title: Peace Corps Week Brochure Registration Form.

Need for and use of this information: This collection of information is necessary because the Peace Corps' Office of Domestic Programs builds awareness of the continuing benefits that former Volunteers bring back to the United States after their service through its Coverdell World Wise Schools program, the Fellows/USA graduate fellowship program, Returned Volunteers Services, and through Peace Corps Day. This program is in support of the third goal of the Peace Corps. For more than 10 years, programs and publications have aimed to harness the cross-cultural experiences of returned Peace Corps Volunteers (RPCVs) to foster better global understanding among Americans, and particularly students, throughout the United States. The information is used by the Office of Domestic Programs to send presentation and educational materials to RPCVs, which enhances the quality of the presentations. Information is also used by Public Affairs Specialists to promote Peace Corps Day regionally, broadly raising awareness for the Peace Corps and augmenting recruiting efforts. Parents of currently serving Volunteers may also receive Peace Corps Day packages.

Respondents: Returned Peace Corps Volunteers.

Respondent's obligation to reply: Voluntary.

Dated: July 5, 2007.

Wilbert Bryant,

Associate Director for Management.

[FR Doc. 07–3438 Filed 7–13–07; 8:45 am]

BILLING CODE 6051–01–M

PEACE CORPS

Proposed Agency Information Collection Activities: OMB Control # 0420–0531 Career Information Consultants Waiver Form (PC–DP–969.1.2)

AGENCY: Peace Corps.

ACTION: Notice of Reinstatement of OMB Control Number 0420–0531, with

changes, of a previously approved collection for which extension approval of 11/30/07 will expire.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget, a request for approval of Reinstatement of OMB Control Number 0420–0531, the Career Information Consultants Waiver Form (PC–DP–969.12). The purpose of this information collection is to gather and update contact information for individuals who volunteer to share information about their career field, their past or current employer(s), and their career and educational paths with current and returned Peace Corps Volunteers. The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of the information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. The initial **Federal Register** notice was published on June 8, 2007, Volume 72, NO. 110, p. 31867 for 60 days. Also available at GPO Access: *wais.access.gpo.gov.* No comments, inquiries or responses to the notice were received. A copy of the information collection may be obtained from Ms. Lisa McCabe, Peace Corps, Office of Domestic Programs, Returned Volunteer Services, 111 20th Street, NW., Room 2135, Washington, DC 20526. Ms. McCabe can be contacted by telephone at 202–692–1449 or 800–424–8580 ext 1435. Comments on the form should be addressed to the attention of Ms. Lisa McCabe, and should be received on or before August 15, 2007.

Need for and Use of This Information: The Career Information Consultants Waiver Form is used to gather contact information from individuals who have volunteered to serve as career resources for current Peace Corps Volunteers and Returned Peace Corps Volunteers. The form is distributed and collected by the Peace Corps Office of Domestic Programs, Returned Volunteer Services Division. The Returned Volunteer Services division provides transition assistance to returning and recently-returned Volunteers through the Career Information Consultants project and other career, educational, and readjustment activities. The purpose of this information collection is to gather and update contact information for the Career Information Consultants database and publication. There is no other means of obtaining the required data. The Career Information Consultants project supports the need to assist returned volunteers and enhance the agency's capability to serve this population as required by Congressional legislation.

Respondents: Professionals interested in supporting current and Returned Peace Corps Volunteers.

Respondent's Obligation to Reply: Voluntary.

Dated: July 5, 2007.

Wilbert Bryant,

Associate Director for Management.

[FR Doc. 07–3439 Filed 7–13–07; 8:45 am]

BILLING CODE 6051–01–M

PEACE CORPS

Information Collection Requests Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of public use form review request to the Office of Management and Budget OMB Control #0420–0513, Correspondence Match Educator Enrollment Form and Teacher Survey.

SUMMARY: The Associate Director for Management invites comments on information collection requests as required pursuant to the Paperwork Reduction Act (44 U.S.C. Chapter 35). This notice announces that the Peace Corps has submitted to the Office of Management and Budget a request to approve the continued use of the PC–2042, Correspondence Match Educator Enrollment form and Teacher Survey. Comments from the public are invited on whether the proposed collection of information is necessary for proper performance of the functions of the Peace Corps and the Paul D. Coverdell World Wise Schools' Correspondence Match program, including whether the information will have practical use; 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; ways to enhance the quality, utility, and clarify of the information to be collected; and ways to minimize the burden of the collection of information to on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of technology. The initial **Federal Register** notice was published on June 4, 2007, Volume 72, No. 106, pgs. 30884–30885 for 60 days. Also available at GPO Access: *wais.access.gpo.gov*. No comments, inquiries or responses to the notice were received. A copy of the information collection may be obtained from a copy of the proposed information collections can be obtained from Sally Caldwell, Director of World Wise Schools, Peace Corps, Office of Domestic Programs, 1111 20th Street, NW., Washington, DC 20256. Ms. Caldwell may be contacted by telephone at 202–692–1425 or 800–424–8580, ext 1425 or e-mail at *scaldwell@peacecorps.gov*. Comments on the collections should be addressed to the attention of Ms. Caldwell and should be received on or before August 15, 2007.

Information Collection Abstract

Title: Correspondence Match Educator Enrollment Form and Teacher Survey.

Need for and Use of this information: The Peace Corps and Paul D. Coverdell World Wise Schools need this information officially to enroll educators in the Correspondence Match program and to provide relevant services to its constituency. The information is used to make a suitable matches between the educators and currently serving Peace Corps volunteers as well assess programmatic functions.

Respondents: Educators interested in promoting global education in the classroom for the Correspondence Match Educator Form. Correspondence Match educators for the Teacher Survey.

Respondents' obligation to reply: Both collections are voluntary.

Dated: July 5, 2007.

Wilbert Bryant,

Associate Director for Management.

[FR Doc. 07–3440 Filed 7–13–07; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56036; File No. SR–CBOE–2007–41]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 Thereto To Codify Pre-Existing Practices and To Amend and Supplement Rule 24.9

July 10, 2007.

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 May 1, 2007, the Chicago Board Options Exchange, Incorporated (''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 substantially prepared by the Exchange. The Exchange submitted Amendment No. 1 to the proposed rule change on June 7, 2007.[3] The Commission is publishing this notice and order to solicit comments on the proposal, 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 codify in its rulebook its pre-existing methodology used for determining the day on which the exercise settlement value of CBOE Volatility Index options and CBOE Increased-Value Volatility Index options (collectively, ''Volatility Index options'') is calculated. The Exchange also proposes to set forth in its rulebook the manner in which the expiration date and last trading day for a Volatility Index option are determined and to supplement the manner in which the day on which the exercise settlement value of a Volatility Index option is calculated is determined. The text of the rule proposal is available on the Exchange's Web site (*http://www.cboe.org/legal*), at the Exchange's Office of the Secretary and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this rule filing is to amend Rule 24.9, Terms of Index Options, to codify the pre-existing methodology used for determining the day on which the exercise settlement value of Volatility Index options is calculated.[4] This day is also the expiration date for Volatility Index options and the business day immediately before the expiration date is the last trading day for Volatility Index options. The Exchange also proposes to supplement the manner for determining the day on which the exercise settlement value of Volatility Index options is calculated in the event of an Exchange holiday.

In general, each Volatility Index is calculated using the quotes of certain index option series (*e.g.*, S&P 500 Index (''SPX'') options) to derive a measure of volatility of the U.S. equity market. Under CBOE's current methodology, the day on which the exercise settlement value of a Volatility Index option is calculated and the expiration date of a Volatility Index option is the Wednesday that is thirty days prior to the third Friday of the calendar month immediately following the expiring month of the Volatility Index option.[5] Additionally, the Tuesday immediately before that Wednesday is the last trading day for Volatility Index options.

This methodology was chosen because it provides consistency by ensuring that Volatility Index options expire exactly thirty days before the expiration date of the options that are used to calculate the Volatility Indexes.[6] Additionally, the Exchange believes that the settlement process works best if underlying option series with a single expiration month are used to calculate a Volatility Index. If underlying options series in two expiration months are used, the number of options series used in the settlement process is markedly increased and the settlement process becomes more complex and cumbersome. The above methodology and the proposed revision to that methodology described below with respect to Exchange holidays ensures that underlying option series in a single expiration month will always be used to calculate the underlying Volatility Index at settlement.

The Exchange also represents that this methodology is consistent with the way in which the final settlement dates for futures contracts on Volatility Indexes are calculated. The Exchange is proposing to amend the existing text of Rule 24.9, relating to the current methodology, to codify its pre-existing practice.

In order to maintain the desired consistency described above, the Exchange also proposes to supplement the current methodology by providing a framework for determining the day on which the exercise settlement value for Volatility Index options will be calculated and the expiration date for Volatility Index options when the Exchange is closed on the third Friday of any given calendar month. Specifically, the Exchange proposes to amend Rule 24.9 to provide that if the third Friday of the month subsequent to the expiration of a Volatility Index option is an Exchange holiday, the exercise settlement value of the Volatility Index option will be calculated on the business day that is thirty days prior to the Exchange business day immediately preceding that Friday.[7] This would also be the expiration date for that Volatility Index option.

The following example is meant to illustrate how this revised methodology will work. February 2008 CBOE Volatility Index (''VIX'') options would generally expire on the Wednesday (February 20, 2008) that is thirty days prior to the third Friday in the succeeding month (March 21, 2008) (This would be the expiration date of the SPX options used to calculate the VIX). However, the Exchange will be

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] *See* Securities Exchange Act Release No. 53342 (February 21, 2006), 71 FR 10086 (February 28, 2006) (SR–CBOE–2006–008). This filing set forth the current methodology for determining the date on which the exercise settlement value of a Volatility Index option is calculated and the expiration date of a Volatility Index option, replacing prior methodology under which options would not expire exactly thirty days prior to the expiration of the options on the index on which the Volatility Index is based in four of the months in any rolling twelve-month period. *See also* CBOE Regulatory Circular 2006–23 (describing methodology for determining date of calculation of exercise settlement value and expiration date).

[5] The options used to calculate the Volatility Indexes are traded on CBOE and generally expire on the third Friday of any given calendar month.

[6] *See supra* note 4.

[7] The Exchange represents that it is also proposing a similar change relating to the final settlement date for futures contracts on volatility indexes.

closed on Friday, March 21, 2008 in observance of Good Friday; therefore, the SPX options will expire on the immediately preceding business day, which is Thursday, March 20, 2008. Accordingly, to ensure that a thirty-day volatility measurement period is used for February 2008 VIX options, the exercise settlement value of those options would be calculated on Tuesday, February 19, 2008 and the expiration date of February 2008 VIX options would also be Tuesday, February 19, 2008. Further, the last trading day for February 2008 VIX options would be Monday, February 18, 2008.

Because February 2008 VIX options are currently traded, the Exchange proposes that this rule change apply to those contracts, as well as to any Volatility Index options that are subsequently traded by the Exchange. The Exchange represents that it will provide public disclosure and notifications to its members and the investing public of this change.

2. Statutory Basis

Because this rule proposal will codify the Exchange's pre-existing practices and improve the settlement procedures for Volatility Index options, the Exchange believes the rule proposal is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to a national securities exchange. Specifically, the Exchange believes that the proposed rule change is consistent with the Section 6(b)(5) Act [8] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition 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

The Exchange neither solicited nor received comments on the proposal.

[8] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2007–41 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–41. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–41 and should be submitted on or before August 6, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13694 Filed 7–13–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56035; File No. SR–CBOE–2007–70]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change and Amendment No. 1 Thereto To Extend the Quarterly Options Series Pilot Program

July 10, 2007.

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 26, 2007, the Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. On July 9, 2007, the Exchange filed Amendment No. 1 to the proposed rule change. The Exchange has designated this proposal as non-controversial under section 19(b)(3)(A)(iii) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend for one year a pilot program (''Pilot Program'') in which the Exchange lists Quarterly Options Series, which are options series that expire at the close of business on the last business day of a calendar quarter. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On July 10, 2006, the Exchange filed with the Securities and Exchange Commission (''Commission'') SR–CBOE–2006–65, which was effective on filing.[5] That proposed rule change allowed the Exchange to establish a pilot program in which the Exchange lists Quarterly Options Series. The Exchange hereby proposes to extend the Pilot Program for one year, so that it will expire on July 10, 2008. This proposal does not request any other changes to the Pilot Program.

In SR–CBOE–2006–65, the Exchange stated that it would submit, in connection with any proposed extension of the Pilot Program, a Pilot Program Report (''Report'') that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The Exchange further stated that the Report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Options Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of CBOE, the Options Price Reporting Authority (''OPRA''), and on market data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how CBOE addressed such problems; and (5) any complaints that CBOE received during the operation of the Pilot Program and how CBOE addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The Exchange has submitted a Report in connection with the present proposed rule change under separate cover, along with a request for confidential treatment under the Freedom of Information Act.

The Exchange represents that the Report clearly supports its belief that extension of the Pilot Program is proper. Among other things, the Report shows the strength and efficacy of the Pilot Program on the Exchange as reflected by the strong volume of Quarterly Options traded on the Exchange since the Pilot's inception in July 2006. The Report establishes that the Pilot Program has not created, and in the future should not create, capacity problems for the Exchange's or OPRA's systems. Moreover, the Exchange believes that the proposed extension of the Pilot Program will not have an adverse impact on capacity.

2. Statutory Basis

The Exchange believes that Quarterly Options Series attract order-flow to the Exchange, increase the variety of listed options to investors, and provide a valuable hedging tool to investors. For these reasons, the Exchange believes that 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) of the Act[7] in particular, in that it is designed to promote just and equitable principles of trade and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Indeed, the Exchange believes that Quarterly Options Series enhance competition by offering a new variety of listed options to investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has designated the proposed rule change as one that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest. Therefore, the foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9] The Exchange has asked the Commission to waive the operative delay to permit the Pilot Program extension to become operative prior to the 30th day after filing.[10]

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the benefits of the Pilot Program to continue without interruption.[11] Therefore, the Commission designates the proposal operative upon filing.[12]

[5] *See* Securities Exchange Act Release No. 54123 (July 11, 2006), 71 FR 40558 (July 17, 2006) (''Pilot Program Release'').

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change at least five business days before doing so.

[11] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] As set forth in the Pilot Program Release, if the Exchange were to propose an extension, an expansion, or permanent approval of the Pilot Program, the Exchange would submit, along with any filing proposing such amendments to the program, a report that would provide an analysis of the Pilot Program covering the entire period during which the Pilot Program was in effect. The report would include, at a minimum: (1) Data and written analysis on the open interest and trading volume in the classes for which Quarterly Options Series were opened; (2) an assessment of the appropriateness of the option classes selected for the Pilot Program; (3) an assessment of the impact of the Pilot Program on the capacity of the Exchange, OPRA, and market

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to: *rule-comments@sec.gov*. Please include File No. SR–CBOE–2007–70 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–70. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commissions Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–70 and should be submitted on or before August 6, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13696 Filed 7–13–07; 8:45 am]

BILLING CODE 8010–01–P

data vendors (to the extent data from market data vendors is available); (4) any capacity problems or other problems that arose during the operation of the Pilot Program and how the Exchange addressed such problems; (5) any complaints that the Exchange received during the operation of the Pilot Program and how the Exchange addressed them; and (6) any additional information that would assist in assessing the operation of the Pilot Program. The report must be submitted to the Commission at least sixty (60) days prior to the expiration date of the Pilot Program. *See* Pilot Program Release, *supra* note 5.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56034; International Series Release No. 1304; File No. SR–Phlx–2007–34]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1 Thereto, Relating to U.S. Dollar-Settled Foreign Currency Options

July 10, 2007.

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 April 13, 2007, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below. On June 13, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons and is approving the proposal, as modified by Amendment No. 1, on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Phlx proposes to: (1) List and trade U.S. dollar-settled foreign currency options (''FCOs'') on the Australian dollar, the Canadian dollar, the Swiss franc and the Japanese yen (together, the ''New Currencies''); (2) amend certain rules relating to the quoting convention for U.S. dollar-settled FCOs for purposes of clarity; (3) delete from Rule 1012 a requirement that the Exchange delist any series of U.S. dollar-settled FCOs outside of a ten percent band around the spot price that have no open interest; (4) amend the closing settlement value rule by moving from 2 p.m. (Eastern time (''ET'')) to 5 p.m. ET the time after which the Exchange will use the previously announced Noon Buying Rate as the basis for the closing settlement value; (5) extend the applicability of Rule 1064, ''Crossing, Facilitation and Solicited Orders,'' to U.S. dollar-settled FCOs; and (6) clarify the applicability of Rule 1092, ''Obvious Errors,'' to U.S. dollar-settled FCOs.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.Phlx.com/exchange/phlx_rule_fil.html*, at the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On January 8, 2007, the Exchange began trading U.S. dollar-settled options on the British pound and the Euro on the Exchange's electronic trading platform for options, Phlx XL.[4] These

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced the original filing in its entirety.

[4] *See* Securities Exchange Act Release No. 54989 (December 21, 2006), 71 FR 78506 (December 29, 2006) (SR–Phlx–2006–34) (''Pound/Euro FCO Approval Order''). In approving the listing and trading of U.S. dollar-settled FCOs on the British

Continued

new U.S. dollar-settled FCOs were in addition to the Exchange's existing physical delivery FCOs. The Exchange now proposes to list U.S. dollar-settled FCOs on the New Currencies. U.S. dollar-settled FCOs on the New Currencies will be subject to the same rules that now apply to existing U.S. dollar-settled options on foreign currencies.[5] In addition, a number of rules are being amended to specifically apply to U.S. dollar-settled options on the New Currencies, as described below. Like the British pound and the Euro, physical delivery options on the four New Currencies are already traded on the Exchange. These existing, physical delivery options on the New Currencies will not be affected by this proposal and will continue to trade as they do today, by open outcry.

The Exchange proposes to disseminate, over the facilities of the Consolidated Tape Association, at least once every fifteen seconds while the Exchange is open for trading, a modified spot rate for the four New Currencies like the modified spot rate currently disseminated for the British pound and the Euro.[6] The modified spot rate will be calculated by the Exchange based on spot prices (bids and asks) it receives from Thomson Financial LLC (''Thomson''). For the Australian dollar, the Exchange will determine the midpoint between the bid and the ask and will modify that rate by multiplying it by 100.[7] However, because the Thomson spot rate selected by the Exchange[8] is expressed differently for the Canadian dollar, the Japanese yen and the Swiss franc than for the Australian dollar, the British pound and the Euro (in foreign currency units per U.S. dollar rather than in U.S. dollars per unit of foreign currency) the modified spot rate Phlx will disseminate for the Canadian dollar, the Japanese yen and the Swiss franc will be one divided by the midpoint between the bid and ask of the Thomson spot rate, rounded up to the nearest millionth if the result ends in values greater than or equal to five ten-millionths, and rounded down if less than five ten-millionths, multiplied by the appropriate modifier.[9] For the Canadian dollar and the Swiss franc, the modifier will be 100. For the Japanese yen, the modifier will be 10,000.[10] The Exchange believes that sufficient other venues exist for obtaining reliable spot market information on the New Currencies so that investors in U.S. dollar-settled FCOs can monitor the underlying spot market in the New Currencies.

Rule 1012, ''Series Of Options Open For Trading,'' Commentary .06, currently provides that the Exchange will initially list exercise strike prices for each expiration of U.S. dollar-settled options on the Euro and the British pound within a ten percent band around the current spot price at half-cent ($.005) intervals. This rule is being expanded to cover all U.S. dollar-settled foreign currency options, including options on the New Currencies. The Exchange also is proposing to amend the rule by deleting a current requirement that the Exchange delist any previously-listed series outside of the current ten percent band that have no open interest. The Exchange has found that this requirement is an administrative burden and does not believe that the restriction is justified. For example, the Exchange has found that approximately once a week, it is required to delete a series only to have it be listed again in a day or two due to movement in the currency. Delisting and relisting various exercise prices with no advance notice on a daily basis has the potential to confuse investors and complicate their trading strategies and decisions.

Rule 1033, ''Bids and Offers—Premium,'' will apply to U.S. dollar-settled options on the New Currencies as well as to the existing U.S. dollar-settled options on the British pound and the Euro. Pursuant to Rule 1033(b)(ii)(A), bids and offers are to be expressed in terms of U.S. dollars per unit of the underlying foreign currency, provided that the first two decimal places shall be omitted from all bid and offer quotations for the Swiss franc, the Canadian dollar, and the Australian dollar, and the first four decimal places shall be omitted from all bid and offer quotations for the Japanese yen. Thus, for example, a bid of ''1.60'' for an option contract on the Japanese yen shall represent a bid to pay $.000160 per yen.[11]

Rule 1034, ''Minimum Increments,'' currently prescribes the minimum trading increment for all U.S. dollar-settled FCOs. This rule will now apply to the New Currencies as well. However, the rule is being amended to add an example of the minimum trading increment in the case of U.S. dollar-settled options on the Japanese yen, which differs from the other U.S. dollar-settled currencies options in that four decimal places, rather than two, are to be disregarded.[12]

Rule 1057, ''U.S. Dollar-Settled Foreign Currency Option Closing Settlement Value,'' currently provides for the determination of the closing settlement value for U.S. dollar-settled options on the British pound and the Euro. The rule is being amended to provide for the closing settlement value for U.S. dollar settled options on the New Currencies. Because the Noon Buying Rate is expressed differently for

pound and the Euro, the Commission's approval order stated that the listing and trading of additional U.S. dollar-settled FCOs on other foreign currencies would require the Exchange to file additional proposed rule changes on Form 19b–4. *Id.*

[5] *See* Pound/Euro FCO Approval Order, *supra* note 4, for a description of the rules applicable to U.S. dollar-settled FCOs.

[6] *See* Securities Exchange Act Release No. 55513 (March 22, 2007), 72 FR 14636 (March 28, 2007) (SR–Phlx–2007–28). The modified spot rate disseminated by the Exchange will not otherwise amend or affect the Exchange's existing rules governing U.S. dollar-settled FCOs.

[7] For example, if .8688 U.S. dollars buys 1 Australian dollar, a modifier of 100 would be used so that the modified spot rate would become 86.88.

[8] Telephone conversation between Carla Behnfeldt, Director, Phlx, David Hsu, Special Counsel, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on June 20, 2007.

[9] Premiums and spot rates for the Canadian dollar, the Japanese yen, and the Swiss franc have been quoted in foreign currency units per U.S. dollar for years in connection with the Exchange's physical delivery FCOs. The Exchange also represents that other major market data vendors also quote spot rates in terms of foreign currency units per U.S. dollar for these currencies as well.

[10] For example, if 115.84 Japanese yen buys one U.S. dollar, the Exchange will divide that amount into one to determine that .008632596 dollars will buy one Japanese yen. The Exchange would then multiply the rounded figure, .008633, by 10,000, so that the modified spot rate to be disseminated would be 86.33.

[11] Rule 1014, ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders,'' and Options Floor Procedure Advice F–6, ''Option Quote Parameters,'' are being revised to provide an illustration of the different option quote spread parameters for U.S. dollar-settled options on the Japanese yen, which differ from the other U.S. dollar-settled FCOs in that four decimal places, rather than two, are to be disregarded when the quote parameters are expressed.

Rules 1014 and 1034 are also being amended by removing the dollar sign before the ''expressed as'' values for quotes and quote spread parameters. Similarly, dollar signs are being added to Options Floor Procedure Advice F–6 in front of the maximum quote spreads (but not in front of the ''expressed as'' values for the maximum quote spreads). The Exchange believes that these changes will make the quoting convention (*i.e.*, disregarding the first four decimal places for the Japanese yen and the first two decimal places for the other currencies underlying the U.S. dollar-settled FCOs) less confusing to the investing public. The changes will also make Rules 1014 and 1034 more consistent with Rule 1033.

[12] Thus, the amended rule provides that all U.S. dollar-settled FCOs on the Japanese yen quoting at $.000300 (expressed as 3.00) or higher shall have a minimum trading increment of $.000010 per unit of the foreign currency, expressed as .10 per unit of the foreign currency, which equals a $10.00 minimum increment per contract consisting of 1,000,000 Japanese yen. The minimum increment for U.S. dollar-settled FCOs on the Japanese yen quoting under $.000300 (expressed as 3.00) shall be $.000005 per unit of the foreign currency, expressed as .05 per unit of the foreign currency, which equals a $5.00 minimum increment per contract consisting of 1,000,000 Japanese yen.

the Canadian dollar, the Japanese yen, and the Swiss franc than for the Australian dollar, the British pound, and the Euro—in foreign currency units per U. S. dollar rather than in U. S. dollars per unit of foreign currency—the closing settlement value for the Canadian dollar, the Japanese yen, and the Swiss franc will be an amount equal to one divided by the day's announced Noon Buying Rate, as determined by the Federal Reserve Bank of New York on the trading day prior to expiration, rounded to the nearest .0001 (except in the case of the Japanese yen where the amount shall be rounded to the nearest .000001).

In addition, Rule 1057 provides that if the Noon Buying Rate is not announced by 2 p.m. ET, the closing settlement value will be based upon the most recently announced Noon Buying Rate, unless the Exchange determines to apply an alternative closing settlement value as a result of extraordinary circumstances. The Exchange is proposing to amend Rule 1057 to provide that the closing settlement value will be based upon the most recently announced Noon Buying Rate if the Noon Buying Rate is not announced by 5 p.m. ET (rather than 2 p.m. ET). The Exchange believes that moving the deadline to 5 p.m. ET should decrease the likelihood that it may be required to base the closing settlement value on the previously announced Noon Buying Rate, which is likely not to be current. The rule will continue to permit the Exchange to apply an alternative closing settlement value as a result of extraordinary circumstances.

Rule 1001, ''Position Limits,'' provides that the position limits shall be 200,000 put or call option contracts (aggregating both U.S. dollar-settled and physical delivery contracts) on the same side of the market relating to the same underlying foreign currency. Rule 1001 is being amended, however, to provide that one U.S. dollar-settled Australian dollar option contract shall count as one-fifth of a contract, one U.S. dollar-settled Canadian dollar option contract shall count as one-fifth of a contract, one U.S. dollar-settled Swiss Franc option contract shall count as one-sixth of a contract, and one U.S. dollar-settled Japanese yen option contract shall count as one-sixth of a contract.[13] The counting of U.S. dollar-settled option contracts as less than one full contract reflects the fact that the size of the U.S. dollar-settled option contract is smaller than the Exchange's physical delivery contract on the same currencies.[14] The position limit rules were originally adopted for the larger physical delivery contracts.

Rule 1014, Commentary .13 is being revised to delete the requirement that the Options Committee and the Foreign Currency Options Committee each establish separate in-person amounts for equity and index options and foreign currency options, respectively. For purposes of Rule 1014, Commentary .13, the Exchange believes that there is no useful reason to establish separate requirements for equity and index options on the one hand, and U.S. dollar-settled FCOs on the other.[15] This amendment will permit the Options Committee to establish one in-person requirement applicable to all ROTs and permit any ROT to satisfy that in-person requirement by trading any kind of option, be it equity, index or FCOs.

The Exchange also is proposing to amend Rule 1064, ''Crossing, Facilitation and Solicited Orders,'' to extend the applicability of the rule to U.S. dollar-settled FCOs. Rule 1064 sets forth, among other things, the procedures by which a floor broker holding an equity or index option order (''original order'') may cross it with another order or orders he or she is holding, or, in the case of a public customer order, with a contra side order provided by the originating firm from its own proprietary account (''facilitation order''). Under certain conditions, Rule 1064 provides ''participation guarantees'' in such crossing or facilitation transactions, entitling the floor broker to cross a certain percentage of the original order with the other order or orders ahead of members of the trading crowd. These participation guarantees currently apply to transactions in equity and index options only. The Exchange proposes to amend Rule 1064, Commentary .02, to provide a participation guarantee for trading in U.S. dollar-settled options that is the same as the participation guarantee for index options.

The Exchange also is proposing to amend Rule 1092, ''Obvious Errors,'' to clarify that the obvious error amounts stated in the existing rule are the amounts by which the amount is ''expressed'' and not the actual amounts. This is merely a technical correction.

Exchange rules designed to protect public customers trading in FCOs will apply to U.S. dollar-settled FCOs on the New Currencies. Specifically, Phlx Rule 1024(b) relating to approval of customer accounts to trade options, Phlx Rule 1026 relating to suitability, Phlx Rule 1027 relating to discretionary power over customer accounts trading in options, Phlx Rule 1025 relating to the supervision of accounts, Phlx Rule 1028 relating to confirmations, and Phlx Rule 1029 relating to delivery of options disclosure documents will apply to trading in U.S. dollar-settled FCOs, including FCOs on the New Currencies.

The Exchange represents that it has an adequate surveillance program in place for FCOs. The Exchange is also a member of the Intermarket Surveillance Group (''ISG'') and may obtain trading information via the ISG from other exchanges who are members or affiliated members of the ISG.[16] Futures on the New Currencies trade on the Chicago Mercantile Exchange (''CME'') and the New York Board of Trade (''NYBOT''). The New York Stock Exchange (''NYSE'') and NYSE Arca list the following exchange traded funds: CurrencyShares Australian Dollar Trust, CurrencyShares Canadian Dollar Trust, and CurrencyShares Swiss Franc Trust. The Exchange represents that, to the best of the Exchange's knowledge, these U.S. markets are the primary trading markets in the world for exchange-traded futures, options on futures and trust shares on these currencies. Phlx can obtain surveillance information from the NYSE, NYSE Arca, CME and NYBOT, as they are members of the ISG. In addition, Phlx is able to obtain

[13] Currently, Rule 1001 provides that one U.S. dollar-settled British pound option contract shall count as one-third of a contract, and that one U.S. dollar-settled Euro option contract shall count as one-sixth of a contract.

[14] The size of the U.S. dollar-settled Australian dollar option contract is 10,000 Australian dollars, which is one-fifth the size of the physical delivery contract size of 50,000 Australian dollars. The size of the U.S. dollar-settled Canadian dollar option contract is 10,000 Canadian dollars, which is one-fifth the size of the physical delivery contract size of 50,000 Canadian dollars. The size of the U.S. dollar-settled Swiss franc option contract is 10,000 Swiss francs, which is approximately one-sixth the size of the physical delivery contract size of 62,500 Swiss francs. The size of the U.S. dollar-settled Japanese yen option contract is 1,000,000 Japanese yen, which is approximately one-sixth the size of the physical delivery contract size of 6,250,000 Japanese yen.

[15] Currently, Options Floor Procedure Advice B–3 provides that a ROT (other than a Remote Streaming Quote Trader (''RSQT'')) is required to trade in-person, and not through the use of orders, the greater of 1,000 contracts or 50% of his contract volume on the Exchange each quarter. ROTs may satisfy this requirement in any option traded on the Exchange. Floor Procedure Advice B–3 also contains a separate requirement that at least 50% of a ROT's trading activity in each quarter must be in assigned options. This requirement will continue to apply to ROTs assigned to equity and index options and FCOs.

[16] The members of the ISG include all of the U.S. registered stock and options markets. The ISG members work together to coordinate surveillance and investigative information sharing in the stock and options markets. In addition, the major futures exchanges are affiliated members of the ISG, which allows for the sharing of surveillance information for potential intermarket trading abuses.

information regarding trading in these products through Phlx members, in connection with such members' proprietary or customer trades which they effect on any relevant market.[17]

Finally, the Exchange represents that it has the necessary systems capacity to support new options series that will result from the introduction of U.S. dollar-settled options on the New Currencies.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [18] in general, and furthers the objectives of Section 6(b)(5) of the Act,[19] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by offering investors the ability to invest in U.S. dollar-settled FCOs on the New Currencies and by simplifying existing rules relating to the expression of strike prices and quotes in the U.S. dollar-settled FCO products.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were either solicited or received.

[17] *See* Equity Floor Procedure Advice F–8 and Options Floor Procedure F–8, ''Failure to Comply with an Exchange Inquiry.'' Pursuant to Phlx Rule 1022, specialists and Registered Options Traders (''ROTs'') are required to identify all accounts maintained for foreign currency trading in which the specialist or ROT engages in trading activity or over which he exercises investment discretion, and no specialist or ROT may engage in foreign currency trading in any account not reported pursuant to the rule. Phlx Rule 1022 also requires every specialist and ROT to make available to Phlx upon request all books, records and other information relating to transactions for their own account or accounts of associated persons with respect to the foreign currency underlying U.S. dollar-settled FCOs, including transactions in the cash market as well as the futures, options and options on futures markets. Rule 1022(d) includes ''other foreign currency derivatives'' in the list of currency related transactions with respect to which specialists and ROTs must provide information to the Exchange.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(5).

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2007–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2007–34. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). 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 Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2007–34 and should be submitted on or before August 6, 2007.

IV. Commission's Findings and Order Granting Accelerated Approval of the Proposed Rule Change

After careful consideration, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[20] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[21] which requires that an exchange have rules designed, among other things, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Significant aspects of the proposal are discussed below.

A. U.S. Dollar-Settled FCOs on the New Currencies

The Commission notes that it recently approved rules governing the listing and trading on Phlx of U.S. dollar-settled options on the British pound and the Euro,[22] and that such rules will be applicable to U.S. dollar-settled options on the New Currencies.[23] The Commission believes that these rules provide for regulation of the listing and trading of FCOs on the New Currencies on Phlx consistent with the Act, as discussed further below.

1. Settlement Value and Dissemination of Information

The Commission believes that sufficient venues exist for obtaining reliable information on the New Currencies so that investors in U.S. dollar-settled FCOs can monitor the underlying spot market in the New Currencies. The Commission notes that, in addition to other major market vendors providing such information, Phlx will disseminate a modified spot rate for the New Currencies at least once every fifteen seconds while the Exchange is open for trading, which will give investors an additional means to track the value of the New Currencies underlying the FCOs. The Commission also believes that Phlx's procedures and the competitive nature of the spot market for the New Currencies should help to ensure that the settlement values for U.S. dollar-settled FCO contracts will accurately reflect the spot price for the New Currencies. Finally, the closing settlement value, as calculated pursuant

[20] In approving this rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78f(b)(5).

[22] *See* Pound/Euro FCO Approval Order, supra note 4.

[23] The Commission notes that the Exchange is making certain technical and clarifying amendments to a number of the existing rules to specifically apply those rules to, and reflect certain differences in, U.S. dollar-settled options on each currency.

to Phlx rules, will be posted on the Exchange's Web site, where it will be publicly available to all visitors on an equal basis, without the need to enter any kind of password.[24]

2. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as U.S. dollar-settled FCOs on the New Currencies, can commence on a national securities exchange. The Commission believes this goal has been satisfied by the application of Phlx customer protection rules to U.S. dollar-settled FCOs on the New Currencies.

3. Surveillance

The Commission notes that Phlx will integrate U.S. dollar-settled FCOs on the New Currencies into existing Phlx market surveillance programs for equity and index options, physical delivery foreign currency options, and other U.S. dollar-settled FCOs, and that Phlx intends to apply those same program procedures to U.S. dollar-settled FCOs on the New Currencies. The Commission also notes that Phlx Rule 1022, Equity Floor Procedure Advice F–8, and Options Floor Procedure F–8 provide Phlx with the authority to obtain information regarding trading in CurrencyShares Australian Dollar Trust shares, CurrencyShares Canadian Dollar Trust shares, CurrencyShares Swiss Franc Trust shares, options on the New Currencies, and futures and options on futures on the New Currencies through Phlx members, in connection with such members' proprietary or customer trades which they effect on any relevant market. In addition, Phlx may obtain trading information through the ISG from other exchanges who are members or affiliates of the ISG. Specifically, Phlx can obtain such information from the NYSE and NYSE Arca in connection with trading in the CurrencyShares Australian Dollar Trust, CurrencyShares Canadian Dollar Trust, and CurrencyShares Swiss Franc Trust on the NYSE and NYSE Arca, and from the CME and NYBOT in connection with trading of futures on the New Currencies on those exchanges. Therefore, the Commission believes that Phlx should have the tools necessary to adequately surveil trading in U.S. dollar-settled FCOs on the New Currencies.

4. Position and Exercise Limits

Like other U.S. dollar-settled FCOs, U.S. dollar-settled FCO contracts on the New Currencies will be aggregated with physical delivery contracts for position and exercise limit purposes. The Commission believes that aggregation of U.S. dollar-settled FCOs on the New Currencies with the physical delivery contracts for position and exercise limit purposes is prudent and minimizes concerns regarding manipulations or disruptions of the markets for U.S. dollar-settled FCO contracts and physical delivery contracts.

5. Other Rules

The Commission believes that the other rule changes proposed by Phlx to accommodate the trading of U.S. dollar-settled FCOs on the New Currencies are consistent with the Act. In particular, the Commission believes it is reasonable for Phlx to initially list exercise strike prices for each expiration around the current spot price at half-cent ($0.005) intervals up to five percent on each side, as it currently does for other U.S. dollar-settled FCOs.[25] The Commission notes that Phlx has represented that it has the system capacity to support the additional quotations and messages that will result from listing options on U.S. dollar-settled FCOs on the New Currencies.[26]

The Commission also believes that it is consistent with the Act for the Exchange to apply the current minimum trading increments for other U.S. dollar-settled FCOs provided in Rule 1034 to U.S. dollar-settled FCOs on the New Currencies. The Commission notes that the Exchange has made appropriate clarifying changes to the rule to account for U.S. dollar-settled options on the Japanese yen, which differ from the other U.S. dollar-settled FCOs in that four decimal places, rather than two, are disregarded.[27]

B. Other Rule Changes Relating to All U.S. Dollar-Settled FCOs

The Commission believes that the other rule changes proposed by Phlx applicable to all U.S. dollar-settled FCOs listed and traded on Phlx (including U.S. dollar-settled FCOs on the New Currencies) are consistent with the Act. First, the Commission believes that it is reasonable for Phlx to remove the requirement that the Exchange delist any series of U.S. dollar-settled FCOs outside of the current ten percent band that has no open interest. The Commission notes that the Exchange has found this requirement to be an administrative burden and does not believe the restriction is justified.[28]

The Commission also believes that it is reasonable for the Exchange to change from 2 p.m. ET to 5 p.m. ET the time up to which the Exchange will use the previously announced Noon Buying Rate as the basis for the closing settlement value, because this will give the Exchange a greater opportunity to use the Noon Buying Rate on the trading day prior to expiration instead of having to rely on a less-current previously announced Noon Buying Rate.

Further, the Commission believes that it is reasonable for the Exchange to extend the application of Rule 1064 governing crossing, facilitation and solicited orders to U.S. dollar-settled FCOs. The Commission notes the Exchange's existing rule provides participation guarantees in crossing or facilitation transactions for trading in equity and index options, and the Commission believes that it is consistent with the Act to provide the same participation guarantee for trading in U.S. dollar-settled FCOs as for index options.

C. Accelerated Approval

Pursuant to Section 19(b)(2) of the Act, the Commission finds good cause to approve the proposal, as amended, prior to the thirtieth day after the amended proposal is published for comment in the **Federal Register**. The Commission notes that U.S. dollar-settled FCOs on the New Currencies will be subject to the same Phlx rules and requirements as other U.S. dollar-settled FCOs, with technical changes where appropriate to account for U.S. dollar-settled FCOs on the New Currencies. The Commission also notes that it recently approved rules for the listing and trading of cash-settled FCOs on the New Currencies on the International Securities Exchange, LLC.[29] Further, the Commission notes that it has previously approved Phlx's rule governing crossing, facilitation, and

[24] Telephone conversation between Carla Behnfeldt, Director, Phlx, and Sara Gillis, Attorney, Division of Market Regulation, Commission, on July 3, 2007.

[25] When listing additional strikes, the Commission expects the Exchange to consider whether the listing of such strikes will be consistent with the maintenance of a fair and orderly market.

[26] *See* letter dated June 21, 2007 from Thomas A. Whitman, Senior Vice President, Phlx, to Heather Seidel, Assistant Director, Division of Market Regulation (''Division''), Commission.

[27] *See infra* note 12 and accompanying text. The Commission notes that the Exchange is also making similar clarifying changes to other rules to account for differences in U.S. dollar-settled options on the Japanese yen. *See e.g.*, Rule 1014, Rule 1033, and Options Floor Procedure Advice F–6.

[28] Nonetheless, the Commission expects the Exchange to consider whether the continued listing of such series would be consistent with the maintenance of a fair and orderly market.

[29] *See* Securities Exchange Act Release No. 55515 (April 3, 2007), 72 FR 17963 (April 10, 2007) (SR–ISE–2006–59).

solicited orders and providing for participation guarantees for equity and index options, and it believes that extending the applicability of such provisions to U.S. dollar-settled FCOs raises no new or novel issues.[30] The Commission also believes that the other proposed clarifications to Phlx's rules serve to enhance the proposal and raise no new regulatory issues. Therefore, the Commission believes that the proposed rule changes relating to the listing and trading of U.S. dollar-settled FCOs on the New Currencies on Phlx do not raise additional significant regulatory issues that have not been previously considered by the Commission. As such, the Commission believes that it is appropriate to allow the Exchange to immediately list and trade U.S. dollar-settled FCOs on the New Currencies.

Accordingly, the Commission finds good cause to accelerate approval of the amended proposal prior to the thirtieth day after publication in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[31] that the proposed rule change (SR–Phlx–2007–34), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[32]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–13695 Filed 7–13–07; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Airworthiness Criteria: Airship Design Criteria for Zeppelin Luftschifftechnik GmbH Model LZ N07 Airship

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed design criteria and request for comments; reopening of comment period.

SUMMARY: This action reopens the comment period stated in the notice of availability of proposed design criteria and request for comments for the airworthiness criteria on the airship design criteria for the Zeppelin Luftschifftechnik GmbH Model LZ N07 Airship. The notice was issued on April 10, 2007 and published on May 3, 2007 (72 FR 24656). In that document, the FAA announced the availability and request for comments on a design criteria for the airship.

DATES: Comments must be received on or before August 15, 2007.

ADDRESSES: Send all comments on the proposed design criteria to: Federal Aviation Administration, Attention: Mr. Karl Schletzbaum, Project Support Office, ACE–112, 901 Locust, Kansas City, Missouri 64106. Comments may be inspected at the above address between 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Karl Schletzbaum, 816–329–4146.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on the proposed design criteria by submitting such written data, views, or arguments as they may desire. Commenters should identify the proposed design criteria on the Zeppelin Luftschifftechnik GmbH model LZ N07 airship and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Small Airplane Directorate before issuing the final design criteria.

A paper copy of the proposed design criteria may be obtained by contacting the person named above under the caption **FOR FURTHER INFORMATION CONTACT**.

Discussion

Background

On April 10, 2007, the Federal Aviation Administration (FAA) issued a notice of availability of proposed design criteria. The notice was published for public comment on May 3, 2007 (72 FR 24656). Comments to that document were due by June 4, 2007. By verbal request, an entity involved in the airship design industry asked the FAA to extend the comment period for the proposed design criteria.

We appreciate the petitioner's substantive interest in the proposed design standards and believe that granting additional time to review the document will allow them to thoroughly assess the impact of the design criteria and provide meaningful comments. Therefore, we will reopen the comment period until August 15, 2007.

Reopening of Comment Period

For the reasons provided in this notice, we believe that good cause exists for reopening the comment period for the proposed design criteria until August 15, 2007. Absent unusual circumstances, the FAA does not anticipated any further extension of the comment period for the design criteria.

Issued in Kansas City, Missouri, on July 7, 2007.

Sandra J. Campbell,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–13707 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 205/EUROCAE Working Group 71: Software Considerations in Aeronautical Systems Sixth Joint Plenary Meeting

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 205/EUROCAE Working Group 71 meeting.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 205/EUROCAE Working Group 71: Software Considerations in Aeronautical Systems.

DATES: The meeting will be held September 10–14, 2007 from 8 a.m.–5 p.m. (variable—see daily schedule).

ADDRESS: The meeting will be held at Vienna University, Vienna, Austria.

FOR FURTHER INFORMATION CONTACT: (1) RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org;* (2) Joint Secretaries, Europe: Mr. Ross Hannon, telephone +44 78807–46650, e-mail: *ross__hannon@binternet.com;* US: Mr. Michael DeWalt, telephone (206) 972–0170, e-mail: *mike.dewalt@certification.com.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 205/EUROCAE Working Group 71 meeting.

NOTE: On arrival at Vienna University please have photo identification available (either a passport, a driver's license bearing a photograph or an identity card) to assist in your badge being issued.

The agenda will include:

[30] The Commission notes that the participation guarantee percentage for U.S. dollar-settled FCOs will be the same as the current participation guarantee percentage for index options.

[31] 15 U.S.C. 78s(b)(2).

[32] 17 CFR 200.30–3(a)(12).

- September 10:
- 08:30 a.m.—Registration.
- 09:00–11:30 a.m.—New Attendees Introductory Session.
- 09:00 Sub-group Meetings.
- Lunch.
- 13:00—CAST Meeting for CAST members only (Closed).
- 16:30—Executive Committee/SG Chairs/Secretaries Meeting.
- September 11:
- 08:30—Latecomers Registration.
- 09:00—Open Plenary (Chairmen's Remarks and Introductions, Approve Agenda, Previous Minutes etc.).
- 09:50—Issue List Status Report.
- 10:40—Sub-Group Report Ins and Q & A Session.
- 11:45—Other Committees/Other Documents Reports.
- Lunch.
- 13:30—Sub-Group Meetings.

16:30—Executive Committee/SG Chairs/Secretaries Meeting (Closed).

- September 12:
- 08:00—Sub-Group Meetings.
- Lunch.
- 15:30—Plenary Session to:
- Co-ordinate Efforts.
- Vote on Text Approval.
- 16:30—Close of Day.
- September 13:
- 08:00—Plenary Session to:
- Co-ordinate Efforts.
- Vote on Text Approval.
- 08:30—Sub-Group Meetings.
- Lunch.
- 15:30—Sub-Group Meetings (Continue) or Mandatory Paper Reading Session (TBD).
- 16:30—Executive Committee/SG Chairs/Secretaries Meetings (Closed).
- CAST meeting for CAST Members only (Closed).
- September 14:
- 08:00—Chairmen's Remarks.
- 08:45—Plenary Text Approval for each of the following Sub-Groups:
- Sub-Group 3: Tool Qualification.
- Sub-Group 4: Model Based Design & Verification.
- Sub-Group 5: Object Oriented Technology.
- Sub-Group 6: Formal Methods.
- Sub-Group 7: Special Considerations.
- Sub-Group 2: Issue & Rationale.
- Sub-Group 1: SCWG Document Integration.
- 12:00—Sub-Groups 1–7 Report Out.
- 13:00—Closing Plenary Session (Other Business, Schedule Meeting, Adjourn).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed on the ''**FOR FURTHER INFORMATION CONTACT**'' section. Members of the public may present a written statement to the committee at any time.

Dated: Issued in Washington, DC, on July 6, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–3443 Filed 07–13–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 202: Portable Electronic Devices

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Special Committee 202 Meeting: Portable Electronic Devices.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Special Committee 202: Portable Electronic Devices.

DATES: The meeting will be held on August 6–10, 2007, from 9 a.m. to 4:30 p.m. (unless stated otherwise).

ADDRESSES: The meeting will be held at Conference Rooms, 1828 L Street, NW., Suite 805, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC 20036–5133; telephone (202) 833–9339; fax (202) 833–9434; Web site *http://www.rtca.org.*

Primary Purpose of Meeting: The plenary is to develop consensus on FRAC comment disposition and recommendation to publish DO-YYY design and certification guidance document. The committee will also work on coordination discussions with Consumer Electronics manufacturers for consensus recommendation on T-PED spurious emissions. Plenary sessions are on Wednesday and Thursday afternoons; working group sessions are Monday, Tuesday, and Friday.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for a Special Committee 202 Portable Electronic Devices meeting. The agenda will include:

- *August 6:*
- Working Group 6 Session starting at 1 p.m.
- Working Group 6 Coordination—Colson Board Room.
- Review presentation materials for CE Manufacturer discussion, polish materials as necessary, decide on CE manufacturers meeting plan, support from SC–202 members, and prepare report-out to SC–202 plenary meeting.
- *August 7:*
- Working Group Session starting at 9 a.m.
- Chairmen's strategy session—Colson Board Room.
- Progress and Status update, Overall Review of Plan and Schedule for document completion, recommendations coordination and implementation.
- Working Group 5 Kickoff and Coordination—Colson Board Room.
- Working Groups Sessions.
- Working Group 5 Overall DO–YYY Document—Colson Board Room.
- Sub Group on PED statistical analysis and characterization—Small Conference Room.
- Sub Group on IPL Test—Location TBD.
- Sub Group on Certification Aspects—Garmin Room.
- Chairmen's Strategy Session—Colson Board Room.
- Coordinate Recommendations to Plenary: Plan and Schedule for Remaining Committee Work.
- *August 8:*
- Opening Plenary Session (Welcome and Introductory Remarks, Agenda Overview).
- Approval of Summary of the Eighteenth Meeting held April 18–19, 2007, RTCA Paper No. 114–07/SC202–136 dated April 30, 2007.
- Update from Regulatory Agencies (FAA, UK–CAA, Canadian TSB, FCC, Japanese-CAB, NCAA-Brazil, or others present).
- Update on EUROCAE Working Group WG58 Status.
- Update on CEA activities, including the CEA Bulletin—Recommended Practice for T–PEDs.
- Working Group 6: PED Spurious Emissions Recommendations Coordination and Implementation.
- Assessment (joint working group withy CEA).
- Schedule and plan for dialog with CE manufacturers, support requirements from SC–202 members.
- Working Group 5: Airplane Design and Certification Guidance.
- Status of FRAC comments, recommended resolutions, plane to complete remaining work, completion of open issues, identify any risks to consensus on final document and proposed actions to mitigate risks.
- Committee discussion on final Phase 2 work plan and schedule for DO–YYY document.
- Break-out Session for WG's as Required.

• WG5 Overall Document and Process—Colson Board Room.
• WG6 PED Spurious Emissions Recommendation—Location TBD.
• Sub Group on PED Statistical analysis and Characterization—Small Conference Room.
• Sub Group on IPL Test—Location TBD.
• Sub Group on Certification Aspect—Garmin Room.
• *August 9:*
• Starting at 8 a.m.—Colson Board Room.
• Working Group Sessions.
• Working Group 5 Overall DO–YYY Document—Colson Board Room.
• Sub Group on PED statistical analysis and characterization—Small Conference Room.
• Sub Group on IPL Test—Location TBD.
• Sub Group on Certification Aspects—Garmin Room.
• Staring at 10 a.m.—Colson Board Room.
• Chairmen's Day 2 Opening Remarks and Process Check.
• *Final Overall Working Group Report will cover the following:*
• FRAC Comment disposition status.
• TOR compliance assessment.
• Plan for closure of any open issues.
• Working Group 5 Airplane Design and Certification Guidance recommendation for FRAC.
• Working Group 6 PED Spurious Emissions Recommendations (reporting on plan for completion of recommendations coordination and implementation).
• *Plenary Consensus:*
• Recommendation to publish final update DO–YYY.
• Understanding of how open items will be completed.
• WG6 plan to coordinate and implement PED Spurious Emissions Recommendations.
• Closing Session (Other Business, Confirm Date and purpose of Upcoming Meetings).
• Twentieth Plenary (tbd)–CEA/SC–202 Consensus Recommendations for implementation of SC–202 recommendations.
• Adjourn to Break-out sessions for Working Groups if required and time permits.
• *August 10:*
• Working Group 5 and Sub Groups' Action Items and Coordination.
• Groups complete action items, as required—Colson Board Room.
• Divide up into other rooms for sub groups as required.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 6, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07–3444 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Albany County, NY

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for the proposed Interstate 87 (I–87) Exit 3, Airport Connector project in Albany County, New York.

FOR FURTHER INFORMATION CONTACT: Richard Frederick, P.E., Acting Regional Director, New York State Department of Transportation, Region One, 328 State Street, Schenectady, New York 12305, Telephone: (518) 388–0388; *or* Robert Arnold, Division Administrator, Federal Highway Administration, New York Division, Leo W. O'Brien Federal Building, 7th Floor, Clinton Avenue and North Pearl Street, Albany, New York 12207, Telephone: (518) 431–4127.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the New York State Department of Transportation (NYSDOT) will prepare an environmental impact statement (EIS) on a proposal to improve access between Interstate 87 (I–87), Wolf Road, and the Albany International Airport in Albany County, New York. The proposed improvement may involve the construction of a new interchange (Exit 3) on I–87. The primary goals of this project are to improve access between I–87, Wolf Road, and the Albany International Airport without precluding future, long-term I–87 mainline improvements while also improving operations and safety in the existing Exit 4 area.

Three alternatives are under consideration: The No Build Alternative, Upgrade Existing Exit 4 Alternative, and Construct a New Interchange (Exit 3) Alternative. Various ramp locations, grades and alignments and intersection improvements will be studied for the build alternatives. Each of the alternatives under consideration would provide pedestrian/bicyclist facilities to connect the existing sidewalks along Wolf Road and the multi-use path along Albany-Shaker Road. Each alternative will also replace the existing I–87 bridges over Albany-Shaker Road.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed interest in this proposal. Public information meetings and a public hearing will be held. Public notice will be given of the time and place of the meetings and hearings. The draft EIS will be available for public and agency review and comment. A formal NEPA scoping meeting will be held.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the NYSDOT or FHWA at the addresses provided above.

(Catalog or Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to the program.)

Authority: 23 U.S.C. 315; U.S.C. 771.123.

Issued on: July 10, 2007.

Amy Jackson-Grove,

Assistant Division Administrator, Federal Highway Administration, Albany, New York.

[FR Doc. 07–3461 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. NHTSA–2007–28680]

Meeting on the Use of Alcohol Ignition Interlocks for Reducing Impaired Driving Recidivism

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of Ignition Interlock Meeting.

SUMMARY: This notice announces a meeting regarding the use of ignition interlocks for convicted impaired driving offenders. The purpose of this meeting is to provide an opportunity for

judges, court personnel, treatment professionals and others to discuss issues relating to the use of ignition interlocks by impaired driving offenders, including but not limited to: (1) Technological issues; (2) legal issues; (3) current barriers to the use of ignition interlocks and (4) issues relating to training and education.

DATES: The meeting is scheduled for August 22, 2007, from 8:30 a.m. until 4:30 p.m.

ADDRESSES: The meeting will be held at the Grand Hyatt Hotel at 1000 H Street, NW., in Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Dr. Jeff Michael, Director of the Office of Impaired Driving and Occupant Protection, 202–366–4299 (*jeff.michael@dot.gov*), NHTSA, NTI–110, 1200 New Jersey Avenue, SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Background

Alcohol ignition interlock devices have been used for over 20 years by criminal justice systems for some individuals convicted of driving while impaired by alcohol (DWI). Nearly every State and the District of Columbia allow or require alcohol interlocks. Ignition interlocks have been shown to reduce DWI recidivism by about 65 percent when installed on offenders' vehicles.

Despite their benefits, a number of practical barriers to utilization of ignition interlocks have been identified, and only a small proportion of offenders who are eligible for interlocks are now using the devices. Law enforcement officials make approximately 1.4 million impaired driving arrests each year and while the number of convictions is somewhat less and the number of repeat offenders yet lower, the approximately 100,000 ignition interlocks that are in use at any one time are a small fraction of the number that could be in service.

Factors that limit the use of ignition interlocks include:

- Absence of statutory language authorizing (or requiring) use of ignition interlocks;
- Lack of knowledge and the latest information about ignition interlocks and interlock programs by judges and other court personnel;
- Concerns about the reliability and integrity of ignition interlocks;
- Concerns about cost, particularly among offenders without financial means;
- Concerns about the lack of availability of ignition interlocks and service providers in certain parts of the country, especially rural areas.

NHTSA is interested in examining the benefits of expanded ignition interlock use as a means to further reduce deaths and injuries from impaired driving. In the 1980's and early 1990's, there was a steep decline in the number of alcohol related traffic fatalities. However in the past decade, there have been only very modest improvements. The Agency is working closely with State highway safety offices and other traffic safety and professional organizations to implement several priority strategies for reducing impaired driving including high visibility law enforcement and improvements to prosecution and court processes. NHTSA believes that expanded use of ignition interlocks is a promising complement to these program strategies.

NHTSA conducts research and evaluation to support utilization of ignition interlocks as part of a comprehensive impaired driving program. The Agency is also participating in the Campaign to Eliminate Drunk Driving, an initiative launched in November 2006 with support from a broad range of national organizations and Federal agencies, including Mothers Against Drunk Driving, the International Association of Chiefs of Police, the Governors Highway Safety Association, the Insurance Institute for Highway Safety, the Alliance of Automobile Manufacturers, The Century Council, and others. The Campaign focuses attention on several key strategies including ignition interlocks:

- High visibility enforcement, including use of sobriety checkpoints.
- Increased use of ignition interlocks for impaired driving offenders.
- Establishment of a Blue Ribbon Panel to research and develop advanced impairment detection technology.
- Grassroots support for these efforts.

This meeting will build on current and past efforts by reviewing progress, identifying barriers and discussing strategies for expanding utilization of ignition interlocks. The meeting is open to the public to the extent that seating capacity allows.

Brian McLaughlin,

Senior Associate Administrator for Traffic Injury Control, National Highway Traffic Safety Administration.

[FR Doc. E7–13729 Filed 7–13–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of the Secretary

Notice of Call for Redemption of 10–3/8 Percent Treasury Bonds of 2007–12

AGENCY: Department of the Treasury.

ACTION: Notice.

SUMMARY: As of July 13, 2007, the Secretary of the Treasury gives public notice that all outstanding 10–3/8 percent Treasury Bonds of 2007–12 (CUSIP No. 912810 DB 1) dated November 15, 1982, due November 15, 2012, are called for redemption at par on November 15, 2007, on which date interest on such bonds will cease.

DATES: Treasury calls such bonds for redemption on November 15, 2007.

FOR FURTHER INFORMATION CONTACT: Definitives Section, Customer Service Branch 3, Office of Retail Securities, Bureau of the Public Debt, (304) 480–7711.

SUPPLEMENTARY INFORMATION:

1. *Bonds Held in Registered Form.* Owners of such bonds held in registered form should mail bonds for redemption directly to: Bureau of the Public Debt, Definitives Section, Customer Service Branch 3, P.O. Box 426, Parkersburg, WV 26106–0426. Owners of such bonds will find further information regarding how owners must present and surrender such bonds for redemption under this call, in Department of Treasury Circular No. 300 dated March 4, 1973, as amended (31 CFR part 306); by contacting the Definitives Section, Customer Service Branch 3, Office of Retail Securities, Bureau of the Public Debt, telephone number (304) 480–7711; and by going to the Bureau of the Public Debt's Web site, *http://www.treasurydirect.gov.*

2. *Bonds Held in Book-Entry Form.* Treasury automatically will make redemption payments for such bonds held in book-entry form, whether on the books of the Federal Reserve Banks or in Treasury Direct accounts, on November 15, 2007.

Kenneth E. Carfine,

Fiscal Assistant Secretary.

[FR Doc. 07–3422 Filed 7–13–07; 8:45 am]

BILLING CODE 4810–40–M

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, § 10(a)(2), that a meeting will be held at the Hay-Adams Hotel, 16th Street and Pennsylvania Avenue, NW., Washington, DC, on July 31, 2007 at 11:30 a.m. of the following debt management advisory committee: Treasury Borrowing Advisory Committee of The Securities Industry and Financial Markets Association.

The agenda for the meeting provides for a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations. The meeting will be closed to the public, pursuant to 5 U.S.C. App. 2, section 10(d) and Public Law 103–202, section 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of agencies by 5 U.S.C. App. 2, section 10(d) and vested in me by Treasury Department Order No. 101–05, that the meeting will consist of discussions and debates of the issues presented to the Committee by the Secretary of the Treasury and the making of recommendations of the Committee to the Secretary, pursuant to Public Law 103–202, § 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. 552b(c)(3)(B). In addition, the meeting is concerned with information that is exempt from disclosure under 5 U.S.C. 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decisions on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, section 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the Committee, premature disclosure of the Committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, this meeting falls within the exemption covered by 5 U.S.C. 552b(c)(9)(A).

Treasury staff will provide a technical briefing to the press on the day before the Committee meeting, following the release of a statement of economic conditions, financing estimates and technical charts. This briefing will give the press an opportunity to ask questions about financing projections and technical charts. The day after the Committee meeting, Treasury will release the minutes of the meeting, any charts that were discussed at the meeting, and the Committee's report to the Secretary.

The Office of Debt Management is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of Committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. 552(b). The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Karthik Ramanathan, Director, Office of Debt Management, at (202) 622–2042.

Dated: July 10, 2007.

Anthony W. Ryan,

Assistant Secretary, Financial Markets.

[FR Doc. 07–3453 Filed 7–13–07; 8:45 am]

BILLING CODE 4810–25–M

Federal Register

Monday,
July 16, 2007

Part II

Environmental Protection Agency

40 CFR Part 63

National Emission Standards for Hazardous Air Pollutants for Area Sources: Acrylic and Modacrylic Fibers Production, Carbon Black Production, Chemical Manufacturing: Chromium Compounds, Flexible Polyurethane Foam Production and Fabrication, Lead Acid Battery Manufacturing, and Wood Preserving; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–AR–2006–0897; FRL–8330–1]

RIN 2060–AN44

National Emission Standards for Hazardous Air Pollutants for Area Sources: Acrylic and Modacrylic Fibers Production, Carbon Black Production, Chemical Manufacturing: Chromium Compounds, Flexible Polyurethane Foam Production and Fabrication, Lead Acid Battery Manufacturing, and Wood Preserving

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing six national emissions standards for hazardous air pollutants for seven area source categories. The final emissions standards and associated requirements for two area source categories (Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication) are combined in one subpart. These final rules include emission standards that reflect the generally available control technologies or management practices in each of these area source categories.

DATES: These final rules are effective on July 16, 2007. The incorporation by reference of certain publications listed in these rules is approved by the Director of the Federal Register as of July 16, 2007.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2006–0897. All documents in the docket are listed in the Federal Docket Management System index at *http://www.regulations.gov.* Although listed in the index, some information is not publicly available, *e.g.*, confidential business information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through www.regulations.gov or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon Nizich, Sector Policies and Programs Division, Office of Air Quality Planning and Standards (D243–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2825; fax number: (919) 541–3207; e-mail address: nizich.sharon@epa.gov.

SUPPLEMENTARY INFORMATION: *Outline.* The information presented in this preamble is organized as follows:

I. General Information
A. Does this action apply to me?
B. Where can I get a copy of this document?
C. Judicial Review
II. Background Information for Final Area Source Standards
III. Summary of Final Rules and Changes Since Proposal
A. NESHAP for Acrylic and Modacrylic Fibers Production Area Sources
B. NESHAP for Carbon Black Production Area Sources
C. NESHAP for Chemical Manufacturing Area Sources: Chromium Compounds
D. NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources
E. NESHAP for Lead Acid Battery Manufacturing Area Sources
F. NESHAP for Wood Preserving Area Sources
IV. Exemption of Certain Area Source Categories from Title V Permitting Requirements
A. Acrylic and Modacrylic Fibers Production
B. Flexible Polyurethane Foam Production and Fabrication
C. Lead Acid Battery Manufacturing
D. Wood Preserving
V. Summary of Comments and Responses
A. Basis for Area Source Standards
B. Proposed NESHAP for Acrylic and Modacrylic Fibers Production Area Sources
C. Proposed NESHAP for Carbon Black Production Area Sources
D. Proposed NESHAP for Chemical Manufacturing Area Sources: Chromium Compounds
E. Proposed NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources
F. Proposed NESHAP for Lead Acid Battery Manufacturing Area Sources
G. Proposed NESHAP for Wood Preserving Area Sources
H. Proposed Exemption of Certain Area Source Categories from Title V Permitting Requirements
I. Compliance with Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
J. Compliance with Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
VI. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act

I. General Information

A. Does this action apply to me?

The regulated categories and entities potentially affected by these final standards include:

Category	NAICS code [1]	Examples of regulated entities
Industry:		
Acrylic and modacrylic fibers production.	325222	Area source facilities that manufacture polymeric organic fibers using acrylonitrile as a primary monomer.
Carbon black production.	325182	Area source facilities that manufacture carbon black using the furnace, thermal, or acetylene decomposition process.
Chemical manufacturing: chromium compounds.	325188	Area source facilities that produce chromium compounds, principally sodium dichromate, chromic acid, and chromic oxide, from chromite ore.
Flexible polyurethane foam production.	326150	Area source facilities that manufacture foam made from a polyurethane polymer.

Category	NAICS code [1]	Examples of regulated entities
Flexible polyurethane foam fabrication operations.	326150	Area source facilities that cut or bond flexible polyurethane foam pieces together or to other substrates.
Lead acid battery manufacturing.	335911	Area source facilities that manufacture lead acid storage batteries made from lead alloy ingots and lead oxide.
Wood preserving	321114	Area source facilities that treat wood such as lumber, ties, poles, posts, or pilings with a preservative.

[1] North American Industry Classification System.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether your facility is regulated by this action, you should examine the applicability criteria in 40 CFR 63.11393 of subpart LLLLLL (NESHAP for Acrylic and Modacrylic Fibers Production Area Sources), 40 CFR 63.11400 of subpart MMMMMM (NESHAP for Carbon Black Production Area Sources), 40 CFR 63.11407 of subpart NNNNNN (NESHAP for Chemical Manufacturing Area Sources: Chromium Compounds), 40 CFR 63.11414 of subpart OOOOOO (NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources), 40 CFR 63.11421 of subpart PPPPPP (NESHAP for Lead Acid Battery Manufacturing Area Sources), or 40 CFR 63.11428 of subpart QQQQQQ (NESHAP for Wood Preserving Area Sources). If you have any questions regarding the applicability of this action to a particular entity, consult either the air permit authority for the entity or your EPA regional representative as listed in 40 CFR 63.13 of subpart A (General Provisions).

B. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this final action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of this final action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

C. Judicial Review

Under section 307(b)(1) of the Clean Air Act (CAA), judicial review of these final rules is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit by September 14, 2007. Under section 307(d)(7)(B) of the CAA, only an objection to these final rules that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by these final rules may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

II. Background Information for Final Area Source Standards

Section 112(k)(3)(B) of the CAA requires EPA to identify at least 30 hazardous air pollutants (HAP), which, as the result of emissions of area sources,[1] pose the greatest threat to public health in urban areas. Consistent with this provision, in 1999, in the Integrated Urban Air Toxics Strategy, EPA identified the 30 HAP that pose the greatest potential health threat in urban areas, and these HAP are referred to as the ''Urban HAP.'' See 64 FR 38715, July 19, 1999. Section 112(c)(3) requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 Urban HAP are subject to regulation. EPA listed the source categories that account for 90 percent of the Urban HAP emissions in the Integrated Urban Air Toxics Strategy.[2] Sierra Club sued EPA, alleging a failure to complete standards for the area source categories listed pursuant to CAA sections 112(c)(3) and (k)(3)(B) within the time frame specified by the statute. See *Sierra Club* v. *Johnston*, No. 01–1537 (D.D.C.). On March 31, 2006, the court issued an order requiring EPA to promulgate standards under CAA section 112(d) for those area source categories listed pursuant to CAA section 112(c)(3).

Among other things, the order requires that, by June 15, 2007, EPA complete standards for six area source categories. On April 4, 2007, we proposed NESHAP for the following seven listed area source categories that we have selected to meet the June 15, 2007 deadline: (1) Acrylic and Modacrylic Fibers Production; (2) Carbon Black Production; (3) Chemical Manufacturing: Chromium Compounds; (4) Flexible Polyurethane Foam Production; (5) Flexible Polyurethane Foam Fabrication Operations; (6) Lead Acid Battery Manufacturing; and (7) Wood Preserving. See 72 FR 16632. These final NESHAP complete the required regulatory action for seven area source categories.

Under CAA section 112(d)(5), the Administrator may, in lieu of standards requiring maximum achievable control technology (MACT) under section 112(d)(2), elect to promulgate standards or requirements for area sources ''which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants.'' As explained in the proposed NESHAP, we are setting standards for these seven area source categories pursuant to section 112(d)(5). See 72 FR 16638, April 7, 2007.

III. Summary of Final Rules and Changes Since Proposal

This section summarizes the final rules and identifies and discusses changes since proposal. For changes that were made as a result of public comments, we have provided detailed explanations of the changes and the rationale in the responses to comments in section V of this preamble.

A. NESHAP for Acrylic and Modacrylic Fibers Production Area Sources

1. Applicability and Compliance Dates

This final rule applies to any existing or new acrylic or modacrylic fibers production plant that is an area source of HAP. The owner or operator of an existing area source must comply with all the requirements of this area source

[1] An area source is a stationary source of hazardous air pollutant (HAP) emissions that is not a major source. A major source is a stationary source that emits or has the potential to emit 10 tons per year (tpy) or more of any HAP or 25 tpy or more of any combination of HAP.

[2] Since its publication in the Integrated Urban Air Toxics Strategy in 1999, EPA has revised the area source category list several times.

NESHAP by January 16, 2008. The owner or operator of a new area source must comply with this area source NESHAP by July 16, 2007 or upon initial startup, whichever is later.

2. Emissions Standards

The Acrylic and Modacrylic Fibers Production area source category was listed pursuant to section 112(c)(3) for its contribution of the Urban HAP acrylonitrile (AN). In response to comments, we have revised the proposed AN requirements for existing area sources to include a new compliance alternative. We have also revised the compliance provisions for existing area sources to allow facilities to change the operating limits for a wet scrubber control device.

Existing area sources. The final standards for existing area sources apply to emissions from the control devices for polymerization and monomer recovery process equipment, spinning lines at plants that do not have a monomer recovery process, and AN storage tanks. As proposed, we are adopting the State permit requirements applicable to the one existing area source as the NESHAP for existing acrylic and modacrylic fibers production area sources.

No changes have been made since proposal to the AN emissions limits for control devices for polymerization and monomer recovery process equipment. The AN emissions limit for the control device for polymerization process equipment is 0.2 pound per hour (lb/hr). The AN emissions limit for the control device for monomer recovery process equipment is 0.05 lb/hr.

In response to comments, we have revised the proposed rule to include an alternative compliance option for existing area sources. The new compliance option in § 63.11395(b)(3) allows an existing area source to comply with the same requirements that apply to process vents for new area sources. Although the two requirements are expressed in different units, they provide an equivalent level of control.

No changes have been made since proposal to the control device parameter operating limits for wet scrubbers. The daily average water flow rate to the wet scrubber control device for polymerization process equipment must not drop below 50 liters per minute (l/min). For the wet scrubber control device for monomer recovery process equipment, the daily average water flow rate must not drop below 30 l/min. We have revised the proposed standard to include procedures for changing the operating limits based on the results of a performance test. These procedures are contained in § 63.11395(k).

As explained in the proposed rule, this rule does not include requirements for spinning lines for existing sources that remove residual AN using a monomer recovery process prior to spinning. As proposed, existing sources that do not have a monomer recovery process prior to spinning must meet the requirements for spinning lines in 40 CFR part 63, subpart YY.

Acrylonitrile storage tanks meeting certain capacity/vapor pressure conditions must comply with one of three control options: (1) A fixed roof in combination with an internal floating roof, (2) an external floating roof, or (3) a closed vent system and control device.

In response to comments, we are clarifying in the final rule that process and maintenance wastewater containing AN must be treated in a wastewater treatment system. We are deleting the definition of ''wastewater'' because we have specifically defined ''process wastewater'' and ''maintenance wastewater.''

New area sources. No changes have been made to the proposed emissions standards for new area sources. The final standards apply to process vents, fiber spinning lines, AN storage tanks, process wastewater, maintenance wastewater, and equipment leaks. The process vent requirements apply to each vent stream with an AN concentration of 50 parts per million by volume (ppmv) or greater and a flow rate of 0.005 cubic meters per minute or greater. The owner or operator must control AN emissions from process vents meeting this threshold by reducing uncontrolled emissions by 98 weight percent or meeting an emissions limit of 20 ppmv by venting vapors through a closed vent system to a recovery device, control device, or flare. The owner or operator must determine which process vents meet the threshold noted above by using the procedures and methods in § 63.1104 of subpart YY.

The emissions limits for fiber spinning lines require the owner or operator to: (1) Reduce AN emissions by 85 weight-percent (e.g., by venting emissions from a total enclosure through a closed vent system to a control device that meets the requirements in 40 CFR part 63, subpart SS), (2) reduce AN emissions from the spinning line to 0.5 pounds of AN per ton (lb/ton) of acrylic and modacrylic fiber produced, or (3) reduce the AN concentration of the spin dope to less than 100 parts per million by weight (ppmw). The requirements in § 63.1103(b)(4) of subpart YY apply to an enclosure for a fiber spinning line.

For all AN storage vessels at a new area source, the owner or operator must: (1) Reduce AN emissions by 98 weight-percent by venting emissions through a closed vent system to any combination of control devices as specified in § 63.982(a)(1) of subpart SS or reduce AN emissions by 95 weight-percent or greater by venting emissions through a closed system to a recovery device as specified in § 63.993 of subpart SS; or (2) comply with the equipment standards for internal or external floating roofs in 40 CFR part 63, subpart WW.

Process wastewater and maintenance wastewater at new sources are subject to the requirements in § 63.1106(a) and (b) of subpart YY. We are clarifying that wastewater that contains AN but which is below the thresholds for control in subpart YY must be treated in a wastewater treatment system. The owner or operator is also required to comply with the equipment leak requirements in subpart YY. Subpart YY applies the requirements in either subpart TT or UU to equipment that contains or contacts 10 percent by weight or greater of AN and that operates at least 300 hours per year.

3. Compliance Requirements

No significant changes have been made to the compliance provisions for existing sources. As proposed, we are including in this final NESHAP the monitoring, testing, recordkeeping, and reporting requirements in the State operating permit for the one existing area source. The only change since proposal is the addition of records of process and maintenance wastewater streams that are treated in a wastewater treatment system. Specifically, for existing sources, continuous parameter monitoring systems (CPMS) are required to measure and record the scrubber water flow rates at least every 15 minutes. The owner or operator of an existing source must determine compliance with the daily average operating limits for the scrubber water flow rates on a monthly basis and submit quarterly compliance reports to EPA or the delegated authority. Compliance with the operating limits is to be determined on a monthly basis; quarterly compliance reports also are required. The owner or operator must keep records of each monthly compliance determination and retain the records for at least 2 years following the date of each compliance determination. If the daily average water flow rate falls below the required operating limit, the owner or operator must submit a report to EPA or the delegated authority that identifies the

exceedance; the owner or operator would be required to submit the report within 10 days of the exceedance.

The owner or operator of an existing source must conduct a performance test for each control device for polymerization process equipment and monomer recovery process equipment. A performance test is not required for an existing source if a prior performance test has been conducted using the methods required by this rule, which are the requirements contained in § 63.1104 of subpart YY, and either no process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

For AN storage tanks at existing sources, the owner or operator must comply with the applicable testing, inspection, and notification procedures in 40 CFR 60.113b(a) and the recordkeeping and reporting requirements in 40 CFR 60.115b and 60.116b of subpart Kb. The testing, monitoring, recordkeeping, and reporting requirements in 40 CFR part 65, subpart C apply if the owner or operator elected to comply with the part 65 control option for AN storage tanks. See 40 CFR 60.110b(e).

The owner or operator of an existing area source must comply with certain notification requirements in § 63.9 of the General Provisions (40 CFR part 63, subpart A). These requirements include a notification of applicability and a notification of compliance status. In the notification of compliance status required in 40 CFR 63.9(h), the owner or operator of an existing source may certify initial compliance with the emissions limits based on a previous performance test if applicable. We have revised the proposed certification of compliance for the emissions limit to include a certification for the new alternative compliance option for process vents. The owner or operator must also certify initial compliance with the NSPS requirements in 40 CFR part 60, subpart Kb.

We are also requiring that the owner or operator of an existing source comply with the requirements for startup, shutdown, and malfunction (SSM) plans, reports, and records in 40 CFR 63.6(e)(3). As proposed, we are allowing additional time (6 months after promulgation) to allow for preparation of the plan.

No changes have been made since proposal to the compliance provisions for new area sources. The owner or operator of a new area source must perform assessments [3] to identify affected process vents, equipment, and wastewater streams; conduct initial performance tests and/or compliance demonstrations; and comply with the monitoring, inspection, recordkeeping, and reporting requirements in each applicable subpart. For process vents, the owner or operator must comply with all testing, monitoring, recordkeeping, and reporting requirements in 40 CFR part 63, subpart SS. For other emissions sources, the owner or operator must comply with all testing, monitoring, recordkeeping, and reporting requirements in 40 CFR part 63, subpart SS or WW for AN tanks, and subpart TT or UU for equipment leaks. Only specified provisions in subpart G apply for process wastewater and maintenance wastewater.

The owner or operator of a new area source is also required to comply with the NESHAP General Provisions (40 CFR part 63, subpart A), including requirements for notifications; performance tests and reports; SSM plans and reports; recordkeeping, and reporting. We have identified in the final NESHAP the General Provisions of 40 CFR part 63 applicable to existing and new sources.

B. NESHAP for Carbon Black Production Area Sources

1. Applicability and Compliance Dates

The final NESHAP applies to each new or existing carbon black production facility that is an area source of HAP. The owner or operator of an existing affected source must comply with all the requirements of this area source NESHAP by July 16, 2007. The owner or operator of a new affected source must comply by July 16, 2007 or upon initial startup, whichever is later.

2. Emissions Standards

The Carbon Black Production area source category was listed pursuant to section 112(c)(3) for regulation for its contribution of the Urban HAP POM (polycyclic organic matter). We have made no changes since proposal to the emissions standards for this source category.

This final NESHAP requires the owner or operator of an existing or new source to control HAP emissions from each carbon black production main unit filter process vent that has a HAP concentration equal to or greater than 260 ppmv. The specific control requirements are: (1) Reduce emissions of HAP by using a flare meeting all the requirements of 40 CFR part 63, subpart SS; or (2) reduce total HAP emissions by 98 weight-percent or to a concentration of 20 ppmv, whichever is less, by venting emissions through a closed vent system to any combination of control devices meeting the requirements 40 CFR 63.982(a)(2).

3. Compliance Requirements

We have made no changes to the proposed compliance provisions for carbon black production area sources. For existing and new area sources, we are adopting in this final NESHAP the testing, monitoring, recordkeeping, and reporting requirements in subpart YY. The owner or operator must demonstrate compliance with the emissions limit for existing and new area sources by monitoring the operating parameters of the control device or devices selected to comply with the requirements of the NESHAP.

The owner or operator of an existing or new area source must comply with the subpart YY notification requirements in 40 CFR 63.1110. In the notification of compliance status required in 40 CFR 63.1110(d), the owner or operator of an existing source may demonstrate initial compliance with the emissions standards based on the results of a performance test that has been previously conducted provided certain conditions are met (*e.g.*, using the same methods as the test methods in the final rule).

As proposed, we are requiring that the owner or operator of an existing area source comply with the SSM requirements in 40 CFR 63.1111. Section 63.1111(a)(1) of subpart YY requires that the source include provisions for an SSM plan.

C. NESHAP for Chemical Manufacturing Area Sources: Chromium Compounds

1. Applicability and Compliance Dates

The final rule applies to the owner or operator of a new or existing area source that manufactures chromium compounds. The owner or operator of an existing area source must comply with all the requirements of this area source NESHAP by January 16, 2008. The owner or operator of a new affected source must comply by July 16, 2007 or upon initial startup, whichever is later. In response to comments, we have also added a definition of ''chromium compounds manufacturing facility.''

2. Emissions Standards

The Chemical Manufacturing: Chromium Compounds area source category was listed for regulation pursuant to section 112(c)(3) for its

[3] These assessments are used to determine which process vents and wastewater streams must be controlled.

contribution of the Urban HAP chromium. We have not revised the emissions standards for this area source category since proposal. However, we have revised Table 1 of subpart NNNNNN to clarify the regulated process equipment. These changes include revising the title of Table 1 to refer to emissions sources instead of emissions points, changing the ''filter for sodium chromate slurry'' to ''residue dryer system'', changing the ''reactor used to produce chromic acid'' to the ''melter used to produce chromic acid'', and removing the ''sodium evaporation unit'' from the table. These changes do not affect the estimated level of emissions control or reduction for the rule.

The final NESHAP requires new and existing facilities to operate a capture system that collects gases and fumes from each emissions source and conveys the gases to a PM control device that controls emissions to the levels required in the rule. Emissions limits for PM, in lb/hr format, are established based on the process rate of the emissions source. The PM emissions limits apply to more than 20 emissions sources in the production of chromium compounds, including sodium chromate, sodium dichromate, chromic acid, chromic oxide, and chromium dehydrate at new and existing sources.

3. Compliance Requirements for Existing Area Sources

As proposed, the compliance requirements for existing area sources are based on the operation and maintenance, recordkeeping, and reporting requirements in the title V permit of the area source located in North Carolina. The title V permit includes requirements for inspections and maintenance of each type of control device, semiannual reports of any deviation, and records of control device inspections and maintenance. The control devices used by the existing area sources in this source category include baghouses, dry electrostatic precipitators, wet electrostatic precipitators, and wet scrubbers. The monitoring requirements for existing area sources consist of inspection and maintenance requirements specific to the type of control device.

In response to comments, we have revised the proposed requirements for initial and periodic inspections of control devices in several respects. The final rule requires an initial inspection for each installed control device which has operated within 60 days of the compliance date. An initial inspection for an installed control device which has not operated within 60 days of the compliance date must be conducted prior to startup. In addition, we have revised the requirements for initial inspections of the internal components of control devices to state that an initial inspection is not required if an inspection has been performed within the past 24 months (for an electrostatic precipitator) or within the past 12 months (for a baghouse or wet scrubber). The proposed requirements for initial inspections that do not require shutting down the process and control device, such as inspecting baghouses and ductwork for leaks and verifying proper operation of electrostatic precipitators and wet scrubbers, have not been revised. We have also clarified the timing for periodic inspections by requiring subsequent inspections 12 or 24 months after the last inspections and then annual or biennial inspections thereafter. We have also revised the final rule to clarify that the requirements for internal inspections of control devices do not apply to cyclonic scrubbers installed upstream of electrostatic precipitators.

For a baghouse, this final NESHAP requires monthly visual inspections of the system ductwork and baghouse units for leaks. The plant owner or operator must conduct an annual inspection of the interior of each baghouse for structural integrity and condition of the filter fabric. For electrostatic precipitators, plants are required to conduct: (1) A daily check to verify that the electronic controls for corona power and rapper operation are functioning, that the corona wires are energized, and that adequate air pressure is present on the rapper manifold; (2) a monthly visual inspection of the system ductwork, cyclones (if applicable), housing unit, and hopper for leaks; and (3) a biennial internal inspection to determine the condition and integrity of corona wires, collection plates, plate rappers, hopper, and air diffuser plates. For wet electrostatic precipitators, plants also must conduct a daily check to verify water flow and a biennial internal inspection to determine the condition and integrity of plate wash spray heads. For wet scrubbers, plants are required to conduct: (1) A daily check to verify water flow to the scrubber; (2) a monthly visual inspection of the system ductwork and scrubber unit for leaks; and (3) an annual internal inspection for structural integrity and condition of the demister and spray nozzle.

The owner or operator of an existing plant must record the results of each inspection, the results of any maintenance performed on the control device, and the date and time of each recorded action. The results of inspections and maintenance of control equipment must be recorded in a logbook (written or electronic). The logbook must be kept onsite and made available to the permitting authority upon request. The owner or operator of an existing plant is required to report any deviations from the emissions limits or monitoring requirements in a semiannual report submitted to the permitting authority.

The owner or operator of an existing area source must submit an initial notification of applicability and a notification of compliance status according to the requirements in 40 CFR 63.9 of the General Provisions (40 CFR part 63, subpart A). In the notification of compliance status required by 40 CFR 63.9(h), the owner or operator must certify that equipment has been installed and is operating for each regulated emissions point and that the plant will comply with the inspection and maintenance requirements. A performance test is not required if a performance test has been conducted within the past 5 years using the specified test methods, and either no process changes have been made since the test, or the owner or operator can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes. The final rule also requires that the owner or operator comply with either the requirements for SSM plans and reports in 40 CFR 63.6(e)(3) or with the requirements in this final rule. The owner or operator is required to submit a report if an event occurs that results in emissions in excess of a PM limit and lasts for more than 4 hours.

4. Compliance Requirements for New Area Sources

No changes have been made to the compliance requirements for new area sources. The owner or operator of a new source must install and operate a bag leak detection system for each baghouse used to comply with a PM emissions limit. For additional information on bag leak detection systems that operate on the triboelectric effect, see ''Fabric Filter Bag Leak Detection Guidance'', U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, September 1997, EPA–454/R–98–015, NTIS publication number PB98164676. This document is available from the National Technical Information Service (NTIS), 5385 Port Royal Road, Springfield, VA 22161.

The owner or operator of a new source that uses a control device other than a baghouse must submit a

monitoring plan to the permitting authority for approval. The plan must describe the control device, the parameters to be monitored, and the operating limits for the parameters established during a performance test.

The owner or operator of a new source is required to demonstrate initial compliance with each applicable PM emissions limit by conducting a performance test according to the requirements in 40 CFR 63.7. EPA Method 5 or 5D (40 CFR part 60, appendix A), as applicable, is to be used to determine the PM emissions. All of the testing, monitoring, operation and maintenance, recordkeeping, and reporting requirements of the part 63 General Provisions apply to a new area source. We have identified in the final NESHAP the General Provisions of 40 CFR part 63 applicable to existing and new sources.

D. NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources

1. Applicability and Compliance Dates

This final NESHAP applies to both new and existing flexible foam production and flexible foam fabrication plants that are area sources. In response to comments, we have revised the compliance dates to allow more time for certain existing area sources to comply with the NESHAP. The owner or operator of an existing slabstock flexible polyurethane foam production-affected source must comply with all of the requirements of this area source NESHAP by July 16, 2008 instead of July 16, 2007. As proposed, the owner or operator of an existing molded flexible polyurethane foam production, an existing rebond foam production, or an existing flexible polyurethane foam fabrication affected source must comply by July 16, 2007. The owner or operator of a new area source must comply by July 16, 2007 or at startup, whichever is later.

2. Emissions Standards and Management Practices

The Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories were listed pursuant to section 112(c)(3) for their contribution of the Urban HAP methylene chloride. No changes have been made since proposal to the required emissions standards and management practices. Table 1 of this preamble summarizes the various types of foam production and fabrication area sources covered by this final rule and the corresponding regulatory strategies. As shown in the table below, slabstock foam producers may still use limited amounts of methylene chloride as an auxiliary blowing agent (ABA). The technologies determined to be GACT for slabstock foam production area sources significantly reduce, but do not always eliminate the use of methylene chloride as an ABA. Methylene chloride use is prohibited for other uses at foam production and foam fabrication facilities.

TABLE 1.—FOAM PRODUCTION AND FABRICATION PROCESSES AND CORRESPONDING REGULATIONS

Area source types	Final regulation
1. Slabstock polyurethane foam production	a. Emission limits for methylene chloride used as an auxiliary blowing agent (ABA); b. Controls on storage vessels; c. Management practices for equipment leaks; and d. Prohibition on use of methylene chloride as an equipment cleaner; or Eliminate use of methylene chloride in slabstock foam production processes.
2. Molded polyurethane foam production	Prohibit use of methylene chloride as mold release agent or equipment cleaner.
3. Rebond foam production	Prohibit use of methylene chloride as mold release agent.
4. Foam fabrication adhesive use	Prohibit use of methylene chloride adhesives.

For slabstock foam production area sources, we are requiring emissions limits and management practices to reduce methylene chloride emissions from the production line, storage tanks, leaking equipment, and equipment cleaning. Emissions limits for methylene chloride used as an ABA are based on a formula which varies depending on the grades of foam being produced. Vapor balance systems or carbon beds are required for methylene chloride storage vessels. The management practices require plants to identify and correct leaking pumps and other equipment in methylene chloride service. Specifically, owners or operators must check periodically for equipment leaks (from quarterly for pumps and valves to annual for connectors) using EPA Method 21 (40 CFR part 60, appendix A). Leaks, which are defined as a reading of 10,000 parts per million (ppm) or greater, must be corrected within 15 days of when they are detected. The use of methylene chloride to clean mix heads and other equipment is prohibited.

Slabstock foam facilities that do not use any methylene chloride at the facility are not subject to these emissions limitations and management practices. Such facilities are, however, required to submit a one-time report.

This final rule prohibits the use of methylene chloride-based mold release agents at molded and rebond foam facilities, methylene chloride-based equipment cleaners at molded foam facilities, and methylene chloride-based adhesives for foam fabrication.

3. Compliance Requirements

No changes have been made since proposal to the compliance requirements. Slabstock foam area sources continuing to use methylene chloride are required to monitor methylene chloride added at slabstock production mixheads and the methylene chloride contained in and added to methylene chloride storage tanks. Plants using carbon adsorber systems to control emissions from methylene chloride storage tanks must monitor the methylene chloride content of exhaust streams from outlet vents. Plants using a recovery device to reduce methylene chloride emissions are required to comply with a recovered methylene chloride monitoring and recordkeeping program.

The owner or operator of a slabstock foam production area source that continues to use methylene chloride as an ABA must submit semiannual reports containing information on allowable and actual methylene chloride emissions, carbon adsorbers on storage tanks, and equipment leaks. Owners and operators are also required to submit annual compliance

certifications. Records are required to demonstrate compliance, including a daily operating log of foam runs containing the grades of foam produced and related data, and records related to storage tanks and equipment leaks. Slabstock foam plants that do not use any methylene chloride must submit a one-time certification as part of their notification of compliance status.

Molded foam, rebond foam, and foam fabrication area source facilities which operate loop slitters must prepare, and keep on file, compliance certifications which certify that the facility is not using the prohibited methylene-chloride based products. The area source plants must also maintain records documenting that the products they are using do not contain any methylene chloride. These can be records that would be kept in the absence of this final rule such as adhesive usage information and Material Safety Data Sheets. Foam fabrication area source plants which do not operate loop slitters have no compliance certification or recordkeeping requirements.

The owner or operator of each slabstock foam affected source that continues to use methylene chloride and, therefore, is subject to the methylene chloride emissions limits, is required to comply with several requirements of the General Provisions in 40 CFR part 63, subpart A. We have identified in the final NESHAP the General Provisions that apply to existing and new sources.

For slabstock foam production facilities that have eliminated the use of methylene chloride and are not subject to the emissions limitations in this final rule, we are requiring that owners or operators submit a notification certifying that they do not use any methylene chloride. Slabstock foam facilities that choose to use methylene chloride in the future will be subject to the emission limits and other requirements discussed above.

E. NESHAP for Lead Acid Battery Manufacturing Area Sources

1. Applicability and Compliance Dates

This final NESHAP applies to new and existing lead acid battery manufacturing plants that are area sources. The owner or operator of an existing source must comply with all the requirements of this area source NESHAP by July 16, 2008. The owner or operator of a new source must comply with this area source NESHAP by July 16, 2007 or at startup, whichever is later.

2. Emissions Standards and Management Practices

The Lead Acid Battery Manufacturing area source category was listed for regulation pursuant to section 112(c)(3) for its contribution of the Urban HAP lead and cadmium. As proposed, we are adopting as the NESHAP for the Lead Acid Battery Manufacturing area source category the numerical emissions limits for grid casting, paste mixing, three-process operations, lead oxide manufacturing, lead reclamation, and other lead emitting processes in 40 CFR 60.372 of the new source performance standards (NSPS) for lead acid batteries. These lead discharge limits are:

- 0.40 milligram of lead per dry standard cubic meter of exhaust (mg/m^3) from grid casting facilities,
- 1.00 mg/m^3 from paste mixing facilities,
- 1.00 mg/m^3 from three-process operation facilities,
- 5.0 mg per kilogram of lead feed from lead oxide manufacturing facilities,
- 4.50 mg/m^3 from lead reclamation facilities, and
- 1.0 mg/m^3 from any other lead-emitting operations.

We are also adopting the opacity limits from the lead acid battery NSPS. The opacity of emissions must be no greater than 5 percent from lead reclamation facilities and no greater than 0 percent from any affected facility except lead reclamation facilities.

3. Compliance Requirements

At proposal, we stated that we would adopt in this NESHAP the compliance requirements in the NSPS for lead acid batteries. We incorrectly stated in the proposal that title V would not add monitoring to the proposed NESHAP. While that statement was accurate for emissions units controlled by scrubbing systems, it was not accurate for emissions units controlled by fabric filters. We recognized our error during our consideration of comments submitted on the proposal. We have incorporated the part 63 monitoring, recordkeeping, and reporting requirements for all emissions units instead of those in part 60. We concluded that the part 63 General Provisions are more appropriate for this NESHAP than are the part 60 General Provisions that were proposed. We have also added periodic monitoring, recordkeeping, and reporting requirements for emissions units controlled by fabric filters.

We are adopting in this NESHAP the testing and monitoring and requirements in the NSPS for lead acid batteries. These provisions include the requirement to conduct a performance test and opacity measurement for each source. They also require continuous monitoring of the pressure drop for sources controlled by scrubbing systems. In addition to these requirements, we added to the final rule daily recordkeeping and semiannual reporting requirements for emissions units that are controlled by scrubbing systems.

We added to the final rule monitoring, recordkeeping, and reporting requirements for emissions units that are controlled by fabric filters. These requirements direct facilities to conduct semiannual inspections of fabric filter structure and bags, and to either: (1) Measure and record the pressure drop across the fabric filter once per day, or (2) conduct daily visible emission observations. If visible emissions are detected, the final rule requires that an opacity measurement be made. A weekly rather than daily alternative monitoring frequency is also available for emissions units that utilize high efficiency particulate air (HEPA) filters in combination with fabric filters.

We are also adopting the testing, monitoring, recordkeeping, and reporting requirements and the initial notification and notification of compliance requirements in the part 63 General Provisions (40 CFR part 63, subpart A). We concluded that the part 63 General Provisions are more appropriate for this NESHAP than the part 60 General Provisions that were proposed.

We have clarified the deadline for submission of initial notifications required by § 63.9 of the General Provisions (40 CFR part 63, subpart A). The initial notification of applicability required for existing facilities is due by November 13, 2007. The notification of compliance status is due 60 days after the 1 year deadline for compliance September 15, 2008. We have identified in the final NESHAP the applicable General Provisions of 40 CFR part 63.

The final NESHAP allows existing plants to utilize previously conducted performance tests, when they are representative of current conditions, to demonstrate compliance. Plants without representative prior performance tests are required to conduct performance tests by 180 days after the compliance date.

F. NESHAP for Wood Preserving Area Sources

1. Applicability and Compliance Dates

This final NESHAP applies to new and existing wood preserving plants

that are area sources. The owner or operator of an existing source must comply with all the requirements of this area source NESHAP by July 16, 2007. The owner or operator of a new source must comply by July 16, 2007 or at startup, whichever is later.

2. Emissions Standards and Management Practices

The Wood Preserving area source category was listed for regulation under section 112(c)(3) for its contribution of the following Urban HAP: arsenic, chromium, methylene chloride, and dioxin. The only changes to the rule made since proposal are clarifications of applicability and the required management practices.

We are adopting as the NESHAP for the Wood Preserving area source category the control technologies and management practices that we have determined are generally available, considering cost, for the wood preserving industry. We have revised the rule since proposal to clarify that the management practices and other recordkeeping and notification requirements in the NESHAP apply to those facilities that are using a wood preservative containing arsenic, chromium, dioxins, or methylene chloride.

The NESHAP requires that facilities using a pressure treatment process use a retort or similarly enclosed vessel for the preservative treatment of wood involving any wood preservative containing chromium, arsenic, dioxins, or methylene chloride. Facilities using a thermal treatment process involving any wood preservative containing chromium, arsenic, dioxins, or methylene chloride are required to use process treatment tanks equipped with air scavenging systems to capture and control air emissions.

This final rule also requires facility owners or operators using any wood preservative containing chromium, arsenic, dioxins, or methylene chloride to minimize emissions from process tanks and equipment (*e.g.*, retorts, other enclosed vessels, and thermal treatment tanks), as well as storage, handling, and transfer operations. These standards are to be documented in a management practices plan that must include, but not be limited to, the following activities:

- Minimizing preservative usage;
- Maintaining records on the type of treatment process and types and amounts of wood preservatives used at the facility;
- For the pressure treatment process, maintaining charge records identifying pressure reading(s) inside the retort (or similarly enclosed vessel, if applicable);
- For the thermal treatment process, maintaining records that an air scavenging system is installed and operated properly during the treatment process;
- For the pressure treatment process, we proposed a requirement for facilities to fully drain the retort prior to opening the retort door. In the final rule, we have clarified this provision to require facilities to fully drain the retort to the extent practicable, prior to opening the retort door;
- Storing treated wood product on drip pads or in a primary containment area to convey preservative drippage to a collection system until drippage has ceased;
- Promptly collecting any spills; and
- Performing relevant corrective actions or preventative measures in the event of a malfunction before resuming operations.

Existing written standard operating procedures may be used as the management practices plan if those procedures include the minimum activities required for a management practices plan.

3. Compliance Requirements

No changes have been made since proposal to the compliance requirements for wood preserving facilities. Plants that use any wood preservative containing chromium, arsenic, dioxins, or methylene chloride are required to comply with the notification requirements in the part 63 General Provisions (40 CFR part 63, subpart A). This final rule establishes the content and deadlines for submission of the notifications. We have explicitly identified in this final NESHAP the applicable General Provisions of 40 CFR part 63.

The final standards require recordkeeping to serve as monitoring and deviation reporting to demonstrate compliance. The compliance requirements for new and existing area sources are based on certain notification requirements in the part 63 General Provisions. The initial notification of applicability required by 40 CFR 63.9(b)(2) requires the owner or operator to identify the plant as an area source subject to the standards. The notification of compliance status requires the owner or operator to certify compliance with the standards. No other recordkeeping or reporting requirements in the General Provisions are applicable.

IV. Exemption of Certain Area Source Categories From Title V Permitting Requirements

Section 502(a) of the CAA provides that the Administrator may exempt an area source category from title V if he determines that compliance with title V requirements is ''impracticable, infeasible, or unnecessarily burdensome'' on an area source category. See CAA section 502(a). In December 2005, in a national rulemaking, EPA interpreted the term ''unnecessarily burdensome'' in CAA section 502 and developed a four-factor balancing test for determining whether title V is unnecessarily burdensome for a particular area source category, such that an exemption from title V is appropriate. See 70 FR 75320, December 19, 2005 (''Exemption Rule'').

The four factors that EPA identified in the Exemption Rule for determining whether title V is ''unnecessarily burdensome'' on a particular area source category include: (1) Whether title V would result in significant improvements to the compliance requirements, including monitoring, recordkeeping, and reporting, that are proposed for an area source category (70 FR 75323); (2) whether title V permitting would impose significant burdens on the area source category and whether the burdens would be aggravated by any difficulty the sources may have in obtaining assistance from permitting agencies (70 FR 75324); (3) whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources (70 FR 75325); and (4) whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP for the area source category, without relying on title V permits (70 FR 75326).

In discussing the above factors in the Exemption Rule, we explained that we considered on ''a case-by-case basis the extent to which one or more of the four factors supported title V exemptions for a given source category, and then we assessed whether considered together those factors demonstrated that compliance with title V requirements would be 'unnecessarily burdensome' on the category, consistent with section 502(a) of the Act.'' See 70 FR 75323. Thus, in the Exemption Rule, we explained that not all of the four factors must weigh in favor of exemption for EPA to determine that title V is unnecessarily burdensome for a particular area source category. Instead, the factors are to be considered in

combination, and EPA determines whether the factors, taken together, support an exemption from title V for a particular source category.

In response to the proposed rule, we received a comment concerning the proposed title V exemptions. In response to this comment, we re-examined the four factors for each of the area source categories for which we had proposed an exemption. As explained below, after evaluating the relevant factors, we again conclude that the requirements of title V would be unnecessarily burdensome on the area source categories for which we proposed an exemption from title V.

In the Exemption Rule, in addition to determining whether compliance with title V requirements would be unnecessarily burdensome on an area source category, we considered, consistent with the guidance provided by the legislative history of section 502(a), whether exempting the area source category would adversely affect public health, welfare or the environment. See 70 FR 15254–15255, March 25, 2005. As discussed below in sections IV.A through IV.D of this preamble, we have determined that the proposed exemptions from title V would not adversely affect public health, welfare and the environment. We therefore finalize the proposed exemptions in this rule.

A. Acrylic and Modacrylic Fibers Production

In sections IV.A through IV.D of this preamble, we apply the four-factor balancing test to determine whether title V is unnecessarily burdensome on the area source category. Starting with the first factor, which is to determine whether title V permits would result in significant improvements to the compliance requirements for the Acrylic and Modacrylic Fibers Production area source category, we compared the monitoring, recordkeeping, and reporting requirements of title V permitting to those requirements in the final NESHAP. As noted above (see section III.A of this preamble), the final NESHAP adopts the compliance requirements in the State-issued permit for the one area source plant currently in operation.

Specifically, this final rule requires CPMS to measure and record the water flow rate to the control device (wet scrubber) every 15 minutes and to determine the daily average flow rate. Periodic visual inspections of AN storage tanks equipped with a fixed roof in combination with an internal floating roof must be conducted according to the NSPS requirements in 40 CFR part 60, subpart Kb. This final rule, therefore, contains both continuous and noncontinuous monitoring requirements, which constitute periodic monitoring. Under EPA's Final Rule Interpreting the Scope of Certain Monitoring Requirements for State and Federal Operating Permits Programs (71 FR 75422, December 15, 2006) (''Interpretive Rule''), if an applicable requirement, such as a NESHAP, contains periodic testing or instrumental or non-instrumental monitoring (*i.e.*, periodic monitoring), permitting authorities are not authorized to assess the sufficiency of or impose new monitoring requirements on a case-by-case basis; therefore, title V would not impose additional monitoring requirements on sources in this category.

We also considered the extent to which title V could enhance compliance through recordkeeping or reporting requirements, including title V requirements for a 6-month monitoring report, deviation reports, and an annual compliance certification in 40 CFR 70.6 and 71.6. The final rule for acrylic and modacrylic fibers production requires the owner or operator to submit an initial certification of compliance that must be signed by a responsible official. In addition, the owner or operator must determine compliance with daily average operating limits for the water flow rates to each control device on a monthly basis and submit compliance reports to EPA or the delegated authority on a quarterly basis. Should the daily average water flow rate to a wet scrubber control device fall below the operating limits, the plant must notify the delegated authority in writing within 10 days of the identification of the exceedance. Reports of performance test results are required. New and existing sources are also required to comply with the requirements for SSM plans, reports, and records in 40 CFR 63.6(e)(3). When an SSM report must be submitted, it must consist of a letter, containing the name, title, and signature of the owner or operator or other responsible official who is certifying its accuracy.

Records are required to demonstrate compliance with the NSPS inspection and repair requirements for storage tanks in 40 CFR part 60, subpart Kb. Records are also required for the monthly compliance determination for scrubber operating limits. The information required in the final rule is similar to the information that must be provided in the deviation reports and semiannual monitoring reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3).

This final rule does not require an annual compliance certification report, which is a requirement of a title V permit. See 40 CFR 70.5(c)(9)(iii) and 40 CFR 71.6(c)(5)(i). The EPA believes that the annual certification reporting requirement is not necessary because the initial compliance certification and subsequent quarterly reports are more than adequate to determine compliance for existing sources. New sources must submit notifications and reports required by the part 63 General Provisions. Moreover, the certifications that new and existing sources must submit under the part 63 General Provisions and the final rule include initial notification of compliance status; periodic and immediate reports under the SSM provisions; and reports of excess emissions and monitoring system performance.

The monitoring, recordkeeping, and reporting requirements in the final rule for the Acrylic and Modacrylic Fibers Production area source category are substantially equivalent to such requirements under title V. Therefore, we conclude that title V would not result in significant improvements to the compliance requirements we are promulgating for this area source category.

We evaluated factor two to determine whether title V permitting would impose a significant burden on the area source category and whether that burden would be aggravated by any difficulty the source may have in obtaining assistance from the permitting agency. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. The EPA estimated that the average annual cost of obtaining and complying with a title V permit was $7,700 per year per source, including fees, or $38,000 per source for a 5-year permit period. See Information Collection Request (ICR) for Part 70 Operating Permit Regulations, January 2000, EPA ICR Number 1587.05. There are certain activities associated with the part 70 and 71 rules that are mandatory and impose burdens on the source. They include reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the State, which may include a combination of written, verbal, and

other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In addition, although not required by the permit rules, many sources obtain the contractual services of professional scientists and engineers (consultants) to help them understand and meet the permitting program's requirements. The ICR for part 70 may help to understand the overall burdens and costs, as well as the relative burdens, of each activity described here. Also, for a more comprehensive list of requirements imposed on part 70 sources (hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In considering the second factor for the one existing area source acrylic and modacrylic fibers plant, we examined the potential economic resources of the parent company and whether the source would have any difficulty in obtaining assistance from the permitting authority. Although this area source plant is small (*i.e.*, it is the smallest of the four known plants in the source category), the parent company is a multi-national corporation and is not a small business. In addition, the plant has worked closely with the State permitting authority to obtain State operating permits and a designation as a synthetic minor source, which means the plant must keep HAP emissions below the major source threshold. The State agency has assigned a staff person who is specifically responsible for the permitting of sources at the plant. This staff person is familiar with the production processes, emissions sources, and permitting requirements for the plant; therefore, the staff person can provide permitting assistance as needed. Consequently, we have no evidence that obtaining a title V permit would impose a significant burden on this particular area source or that the burden would be aggravated by any difficulty in obtaining assistance from permitting authorities. However, we do not know what circumstances would exist for new sources in this category.

The third factor, which is closely related to the second factor, is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. While we concluded that the one existing area source could sustain the cost of title V permit requirements without a significant economic impact on the company as a whole, we do not think the costs for the one existing area source are justified because we do not think title V permitting would lead to gains in compliance by the source. As discussed above for factor one, we determined that the compliance requirements of this NESHAP are substantially equivalent to the requirements of title V. Furthermore, as discussed below for factor four, there are adequate implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP. We conclude, therefore, that the costs of title V are not justified for the one existing area source in this category, even though we concluded the costs would not be burdensome on the existing area source in this category. Furthermore, for new sources, the requirements of title V may be a significant burden and, since we have determined consistent with the first factor that there would not be significant improvements in compliance under title V, we likewise conclude that the cost would not be justified.

The fourth factor we considered is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with this NESHAP without relying on title V permits. In the proposal, we considered whether there are State programs in place to enforce these area source NESHAP. We stated that we believe that the State programs are sufficient to assure compliance with these NESHAP. We also noted that EPA retains authority to enforce these NESHAP anytime under CAA sections 112, 113 and 114. We concluded that title V permitting is ''unnecessary'' to assure compliance with these NESHAP because the statutory requirements for implementation and enforcement of these NESHAP by the delegated States and EPA are sufficient to assure compliance with these area source NESHAP without title V permits. We also noted that small business assistance programs required by CAA section 507 may be used to assist area sources that have been exempted from title V permitting. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. We determined that these additional programs will supplement and enhance the success of compliance with these area source NESHAP and concluded that in light of all of the above, that there are implementation and enforcement programs in place that are sufficient to assure compliance with these NESHAP without relying on title V permitting.

In applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data available to demonstrate that States were not only enforcing the provisions of the area source NESHAP that we exempted, but that the States were also providing compliance assistance to ensure that the area sources were in the best position to comply with the NESHAP. See 70 FR 75325–75326. We do not have similar data for this rule because we are issuing this final NESHAP today. In the Exemption Rule, EPA exempted the categories from the requirements of title V after the NESHAP was issued. Although we do not have the type of enforcement data we had in the Exemption Rule, we have no reason to think that States will be less diligent in enforcing this NESHAP. See 70 FR 75326. In fact, States must have adequate programs to enforce section 112 regulations and provide assurances that it will enforce all NESHAP before EPA will delegate the program. See 40 CFR part 63, subpart E. There are State programs in place to enforce this area source NESHAP and assure compliance with the NESHAP. In light of the above, we conclude that there are implementation and enforcement programs in place that are sufficient to assure compliance with the final rule without relying on title V permitting.

Considering the factors in combination supports the finding in the proposal that title V is unnecessarily burdensome on this area source category. We found in the proposal and again here that title V would not result in significant improvements to the compliance requirements applicable to this area source category and that there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Although we concluded that the cost of title V permitting would not be burdensome on the one known existing area source, we cannot conclude that title V would not be a significant burden on new sources in the category. We also found that the cost is not justified because we could not identify any potential gains in compliance within the category if title V were required for this category. Thus, we conclude that title V permitting is ''unnecessarily burdensome'' for the Acrylic and Modacrylic Fibers Production area source category.

In addition to evaluating whether compliance with title V requirements is ''unnecessarily burdensome'', EPA also

considered, consistent with guidance provided by the legislative history of section 502(a), whether exempting these area source categories from title V requirements would adversely affect public health, welfare, or the environment. We stated at proposal that exemption of this area source category from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same even if a title V permit were required. We continue to believe that there would be no adverse effects for all of the reasons supporting the exemptions as discussed above.

Importantly, the title V permit program does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for this category, title V would not lead to significant improvements in the compliance requirements applicable to existing or new area sources. We conclude, therefore, that exempting this area source category from title V permitting requirements in the final rule would not adversely affect public health, welfare, or the environment.

Moreover, one of the primary purposes of the title V permitting program is to clarify, in a single document, the various and sometimes complex regulations that apply to sources in order to improve understanding of these requirements and to help sources to achieve compliance with the requirements. In this case, placing all requirements for the one existing area source in a title V permit would do little to clarify the requirements applicable to that source or assist it in compliance with those requirements because of the simplicity of the source and the NESHAP, and the fact that this source is not subject to other NESHAP or to other requirements under the CAA. Given that the emissions profile for new sources should be similar to the existing source, we believe that new sources would be subject to similar CAA requirements.

For the foregoing reasons, we are exempting the Acrylic and Modacrylic Fibers Production area source category from title V permitting requirements.

B. Flexible Polyurethane Foam and Fabrication

As discussed in the proposal, to determine whether title V permits would result in significant improvements to the compliance requirements in the final NESHAP for flexible polyurethane foam production and fabrication area source categories (factor one in determining whether title V permitting is ''unnecessarily burdensome''), we compared the title V monitoring, recordkeeping, and reporting requirements to those requirements in the final NESHAP for these source categories.

This final NESHAP does not contain monitoring or periodic reporting requirements for molded foam production, rebond foam production, and foam fabrication facilities that must eliminate the use of methylene chloride, or for slabstock foam production facilities that elect to totally eliminate the use of methylene chloride. Since these facilities have discontinued the use of methylene chloride entirely, Urban HAP emissions would be reduced without the need for continuous or periodic monitoring of equipment or operations.

For slabstock foam production facilities still using methylene chloride as an ABA, the final NESHAP requires the same periodic monitoring in the form of quantifying methylene chloride usage that must be performed by major sources. Therefore, title V would not add any monitoring to the final NESHAP. See the Interpretive Rule (71 FR 75422, December 15, 2006).

We also considered the extent to which title V could enhance compliance for area sources through recordkeeping or reporting requirements, including title V requirements for a 6-month monitoring report, deviation reports, and an annual compliance certification in 40 CFR 70.6 and 71.6. The final NESHAP requires area source foam plants that have discontinued the use of methylene chloride to certify compliance with the prohibition on methylene chloride in their Notification of Compliance Status reports. For slabstock foam plants still using methylene chloride, the final NESHAP requires the same recordkeeping or reporting that must be performed by major sources. The information required in the final reports and records is similar to the information that must be provided in the deviation reports and required for title V permitting under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3).

The final NESHAP requires a report if a deviation occurs, but does not require periodic compliance reports. The addition of periodic reports for sources that are subject to monitoring requirements would not result in significant improvements to the compliance requirements in the final NESHAP for these area source categories. The final NESHAP does not require an annual compliance certification report for slabstock facilities that continue to use methylene chloride, as would be required under a title V permit. See 40 CFR 70.5(c)(9)(iii) and 40 CFR 71.6(c)(5)(i). EPA believes that the annual certification reporting requirement is not necessary because the deviation reports are adequate to ensure compliance for new and existing sources. Furthermore, even absent the requirement to submit annual compliance certifications, sources must comply with all emission standards in the NESHAP. In conclusion, we do not believe that title V would lead to significant improvements in the compliance requirements for these categories.

The second factor considered in determining whether title V is ''unnecessarily burdensome'' is whether title V permitting would impose significant burdens on the flexible polyurethane foam production and fabrication area sources and whether these burdens would be aggravated by difficulty they may have in obtaining assistance from permitting agencies. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. The EPA estimated that the true average annual cost of obtaining and complying with a title V permit was $38,500 per source for a 5-year permit period, including fees. See Information Collection Request for Part 70 Operating Permit Regulations, January 2000, EPA Number 1587.05.

The EPA does not have specific estimates for the burdens and costs of permitting flexible polyurethane foam production and fabrication area sources; however, there are certain source activities associated with the part 70 and 71 rules. These activities are mandatory and impose burdens on the source. They include reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the State, which may include a combination of written, verbal, and other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In

addition, although not required by the permit rules, many sources obtain the contractual services of professional scientists and engineers (consultants) to help them understand and meet the permitting programs' requirements.

The ICR for part 70 further explains the overall burdens and costs, as well as the relative burdens of each activity described here. Also, for a more comprehensive list of requirements imposed on part 70 sources (hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In the proposal, we stated that we believed the cost of a title V program would be a significant burden for the area sources in all the categories that we proposed to exempt. For flexible polyurethane foam production and fabrication, that conclusion was based on the types of smaller establishments that make up these categories. We estimate that over 90 percent of the firms in the NAICS code for these categories are small businesses, with over half the firms having less than 20 employees. We believe that these small sources will likely lack the technical resources needed to comprehend and comply with the permitting requirements and the financial resources needed to hire the necessary staff or outside consultants. Accordingly, we conclude that title V would be a significant burden for these categories because almost all the sources are small businesses with limited resources, and that it would be difficult for them to meet the numerous requirements applicable to sources under part 70 or 71, whether they have a standard or general permit. Also, we are not sure what level of title V related assistance permitting authorities would be able to provide such small sources. Thus, for the final rule, we believe factor two supports title V exemption for flexible polyurethane foam production and fabrication sources because title V compliance would impose a significant economic and non-economic burden on sources in these categories.

The third factor is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. We concluded after consideration of the first factor that title V would not result in significant improvements to the compliance requirements in the final rule for flexible polyurethane foam production and fabrication source categories. We also concluded in our consideration of the second factor that title V permitting would be a significant burden on the facilities and that the burden was associated with both the financial cost of compliance as well as the time and effort that these small facilities would have to devote to compliance with title V. Furthermore, as discussed in our consideration of the fourth factor below, there are adequate implementation and enforcement programs in place sufficient to ensure compliance with the NESHAP. Because the costs, both economic and non-economic, are burdensome on these sources, and title V would not lead to significant improvements in compliance with the NESHAP, we conclude that requiring title V permitting is not justified for the Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories.

The fourth factor we considered is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with this NESHAP without relying on title V permits. In the proposal, we considered whether there are State programs in place to enforce these area source NESHAP. We stated that we believe that the State programs are sufficient to assure compliance with these NESHAP. We also noted that EPA retains authority to enforce these NESHAP anytime under CAA sections 112, 113 and 114. We concluded that title V permitting is ''unnecessary'' to assure compliance with these NESHAP because the statutory requirements for implementation and enforcement of these NESHAP by the delegated States and EPA are sufficient to assure compliance with these area source NESHAP without title V permits. We also noted that small business assistance programs required by CAA section 507 may be used to assist area sources that have been exempted from title V permitting. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. We determined that these additional programs will supplement and enhance the success of compliance with these area source NESHAP and concluded that in light of all of the above, that there are implementation and enforcement programs in place that are sufficient to assure compliance with this NESHAP without relying on title V permitting.

In applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data available to demonstrate that States were not only enforcing the provisions of the area source NESHAP that we exempted, but that the States were also providing compliance assistance to ensure that the area sources were in the best position to comply with the NESHAP. See 70 FR 75325–75326. In proposing this rule, we did not have similar data available on the specific enforcement as in the Exemption rule, but we have no reason to think that States will be less diligent in enforcing this NESHAP. See 70 FR 75326. In fact, States must have adequate programs to enforce the HAP regulations and provide assurances that it will enforce all NESHAP before EPA will delegate the program. See 40 CFR part 63, subpart E.

In light of all of the above, we conclude that there are implementation and enforcement programs in place that are sufficient to assure compliance with the flexible polyurethane foam production and fabrication NESHAP without relying on title V permitting.

Balancing the four factors for these area source categories strongly supports the proposed finding that title V is unnecessarily burdensome. We determined in the proposal and above that title V would not significantly improve the compliance requirements of the NESHAP and that the requirements of title V would be a significant burden on the facilities. We also determined that the costs of compliance with title V would not be justified because it would not likely lead to gains in compliance with the NESHAP and that there are sufficient implementation and enforcement programs in place to assure compliance without reliance on title V. All four factors weigh in favor of exemption, and we conclude that title V permitting is ''unnecessarily burdensome'' for the Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories.

In addition to evaluating whether compliance with title V requirements is ''unnecessarily burdensome'', EPA also considered, consistent with guidance provided by the legislative history of section 502(a), whether exempting the Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories from title V requirements would adversely affect public health, welfare, or the environment. Exemption of the Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same if a title V permit were required.

The title V permit program does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for this category, title V would not lead to significant improvements in the compliance requirements applicable to existing or new area sources. Therefore, we conclude that exempting the flexible polyurethane foam production and fabrication area sources from title V permitting requirements in these rules will not adversely affect public health, welfare, or the environment.

Moreover, one of the primary purposes of the title V permitting program is to clarify, in a single document, the various and sometimes complex regulations that apply to sources in order to improve understanding of these requirements and to help sources to achieve compliance with the requirements. In this case, however, we do not believe that a title V permit is necessary to understand the requirements applicable to these area sources, as the requirements are not complicated to understand or implement. Furthermore, the sources in this category are not subject to any other NESHAP or CAA requirements to combine into one title V permit. For these reasons, we do not find that title V permitting is necessary to improve understanding of and achieve compliance with these standards.

For the foregoing reasons, we are exempting the Flexible Polyurethane Foam Production and Flexible Polyurethane Foam Fabrication area source categories from title V permitting requirements.

C. Lead Acid Battery Manufacturing

In the proposal, we discussed whether title V permitting was ''unnecessarily burdensome'' for the Lead Acid Battery Manufacturing area source category. Factor one in determining whether title V permitting is ''unnecessarily burdensome'' is to determine whether title V permits would result in significant improvements to the compliance requirements in the final NESHAP. In this NESHAP, we proposed adopting the compliance requirements in the NSPS for lead acid battery manufacturing as the compliance requirements for this area source category. The final rule includes the same provisions and requires monitoring, recordkeeping and deviation reporting to ensure compliance with the NESHAP. Specifically, the final rule requires that a facility using a scrubbing system install, calibrate, maintain, and operate a monitoring device that measures and records the pressure drop across the scrubbing system at least once every 15 minutes. Opacity requirements are zero percent for five of the six emission sources and five percent for the sixth. In addition to these requirements, we are adding in the final rule monitoring, recordkeeping and reporting requirements for emissions units controlled by fabric filters. These requirements direct facilities to perform and keep records of semiannual fabric filter inspections and to either: (1) Measure and record the pressure drop across the fabric filter once per day or (2) conduct daily visible emission observations. If visible emissions are detected, the final rule requires that an opacity measurement be made. The alternative of weekly monitoring is also available for emissions units that utilize HEPA filters in combination with fabric filters.

Each facility must demonstrate compliance by either conducting a performance test or submitting the results of a recent performance test conducted using the methods and procedures in the final NESHAP. Because both the continuous and noncontinuous monitoring methods required by the final NESHAP constitute periodic monitoring, title V would not result in significant improvements to monitoring in the final NESHAP. *See* the Interpretive Rule (71 FR 75422, December 15, 2006).

We also considered the extent to which title V could enhance compliance through recordkeeping or reporting requirements, including title V requirements for a 6-month monitoring report, deviation reports, and an annual compliance certification in 40 CFR 70.6 and 71.6. Records are required to demonstrate compliance. Plants are required to comply with the testing, monitoring, recordkeeping, and reporting requirements in the part 63 General Provisions (40 CFR part 63, subpart A). The information required in the NESHAP is similar to the information that must be provided in the deviation reports and semiannual monitoring reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3).

The NESHAP for lead acid battery manufacturing requires the owner or operator to submit an initial certification of compliance that must be signed by a responsible official. The NESHAP does not require an annual compliance certification report, as would be required under a title V permit. See 40 CFR 70.5(c 9)(iii) and 40 CFR 71.6(c)(5)(i). EPA believes that the title V annual certification reporting requirement is not necessary because the semiannual reports are adequate to ensure compliance for new and existing sources. Furthermore, even absent the requirement to submit annual compliance certifications, sources must comply with all emission standards in the NESHAP. Therefore, the monitoring, recordkeeping and reporting requirements in the final NESHAP for the Lead Acid Battery Manufacturing area source category are substantially equivalent to requirements under title V. We conclude that title V would not result in significant improvements to the compliance requirements for this area source category.

The second factor considered in determining whether title V permitting is ''unnecessarily burdensome'' is whether title V permitting would impose a significant burden for the Lead Acid Battery Manufacturing area source category and whether that burden would be aggravated by any difficulty these sources may have in obtaining assistance from permitting agencies. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. EPA previously estimated that the true average annual cost of obtaining and complying with a title V permit was $38,500 per source for a 5-year permit period, including fees. See Information Collection Request for Part 70 Operating Permit Regulations, January 2000, EPA ICR Number 1587.05.

EPA does not have specific estimates for the burdens and costs of permitting lead acid battery manufacturing area sources; however, there are certain source activities associated with the part 70 and 71 rules. These activities are mandatory and impose burdens on the source. They include reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the State, which may include a combination of written, verbal, and other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In addition, although not required by the

permit rules, many sources obtain the contractual services of professional scientists and engineers (consultants) to help them understand and meet the permitting programs' requirements.

The ICR for part 70 may help to understand the overall burdens and costs, as well as the relative burdens of each activity described here. Also, for a more comprehensive list of requirements imposed on part 70 sources (hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In considering the second factor for lead acid battery manufacturing, we examined the potential economic resources of the plants and their parent companies and whether they would have any difficulty in obtaining assistance from the permitting authority. There are a few multi-national corporations that own several lead acid battery manufacturing plants that would be subject to this NESHAP, and those facilities would have resources adequate to absorb the economic and non-economic burdens associated with complying with the title V permitting requirements. However, there are many plants that are small businesses for which the title V permitting requirements would be a significant burden, both economic and non-economic. In addition to the small businesses currently subject to the NSPS, there are some small plants [4] that are not subject to the NSPS that will be subject to the NESHAP. These small businesses will be burdened complying with the NESHAP, even if title V compliance is not required.

Through discussions with the industry trade organization, we have learned that very few lead acid battery manufacturing facilities currently are subject to a title V permit for either lead or other criteria pollutants. Some plants have synthetic minor permits to remain below the threshold for title V permitting for criteria pollutants. As such, if title V permits were required the sources would have difficulty obtaining assistance from the permitting authorities as they developed and applied for title V permits. This difficulty stems from the fact that there are about 60 plants in this area source category, and permitting authorities'' resources are limited. Thus, the difficulty sources would have obtaining appropriate guidance from permitting authorities would only increase the already significant economic and non-economic burdens of title V on the small facilities with limited resources.

The third factor is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. We evaluated the monitoring, recordkeeping, reporting requirements of the proposed NESHAP when considering the first factor and concluded above that title V would not lead to significant improvements to the compliance requirements for this category. In considering the second factor, we concluded that some of the existing area sources could comply with the title V permit requirements without a significant economic impact on the company as a whole. But, we also concluded that the costs would be a significant burden for small facilities, particularly those not currently covered by the NSPS because they would have to comply with the NESHAP and title V simultaneously. In addition, under the fourth factor below, we find that there are adequate implementation and enforcement programs in place to enforce the provisions of the NESHAP. We believe that the costs of compliance with title V are, therefore, not justified for this area source category given the little potential for gain in compliance benefits.

The fourth factor we considered is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with this NESHAP without relying on title V permits. In the proposal, we considered whether there are State programs in place to enforce these area source NESHAP. While we did not state this in the proposal, we know that States have been enforcing the NSPS on which the NESHAP is based for this source category for some time and that the State programs are sufficient to assure compliance with these NESHAP.

We noted at proposal that EPA retains authority to enforce these NESHAP anytime under CAA sections 112, 113 and 114. We concluded that title V permitting is ''unnecessary'' to assure compliance with these NESHAP because the statutory requirements for implementation and enforcement of these NESHAP by the delegated States and EPA are sufficient to assure compliance with these area source NESHAP without title V permits. We also noted that small business assistance programs required by CAA section 507 may be used to assist area sources that have been exempted from title V permitting. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. We determined that these additional programs will supplement and enhance the success of compliance with these area source NESHAP and concluded that in light of all of the above, that there are implementation and enforcement programs in place that are sufficient to assure compliance with these NESHAP without relying on title V permitting.

In applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data available to demonstrate that States were not only enforcing the provisions of the area source NESHAP that we exempted, but that the States were also providing compliance assistance to ensure that the area sources were in the best position to comply with the NESHAP. See 70 FR 75325–75326. In proposing this rule, we did not have similar data available on the specific enforcement as in the Exemption Rule, but we have no reason to think that States will be less diligent in enforcing this NESHAP. See 70 FR 75326. In fact, States must have adequate programs to enforce the section 112 regulations and provide assurances that it will enforce all NESHAP before EPA will delegate the program. See 40 CFR part 63, subpart E.

In light of all of the above, we conclude that there are implementation and enforcement programs in place that are sufficient to assure compliance with these NESHAP without relying on title V permitting.

Balancing the four factors for this area source category supports the proposed finding that title V is unnecessarily burdensome. In considering the first factor, we concluded that title V would not lead to significant improvements in the compliance requirements. We concluded after consideration of the second factor that title V would impose a significant burden on the small facilities, particularly those not subject to the NSPS, but that the burden would not be significant for sources owned by larger companies. We concluded that the costs would not be justified given the little potential gain in the compliance likely to occur. We also determined that there are adequate implementation and enforcement programs in place to enforce the NESHAP and, furthermore, States have in fact been enforcing the provisions of the NSPS. All four factors individually support exemption, and collectively they support the finding in the proposal. Therefore, we conclude that title V permitting is ''unnecessarily

[4] The new source performance standard (NSPD) applied only to plants that produced or had the design capacity to produce in one day batteries containing an amount of lead equal to or greater than 5.9 megagrams (6.5 tons).

burdensome'' for the Lead Acid Battery Manufacturing area source category.

In addition to evaluating whether compliance with title V requirements is ''unnecessarily burdensome'', EPA also considered, consistent with guidance provided by the legislative history of section 502(a), whether exempting the Lead Acid Battery Manufacturing area source category from title V requirements would adversely affect public health, welfare, or the environment. Exemption of the Lead Acid Battery Manufacturing area source category from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same if a permit were required. The title V permit program does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for this category, title V would not lead to significant improvements in the compliance requirements applicable to existing or new area sources. There is no evidence in the record that leads us to question these conclusions. Therefore, we conclude that exempting the lead acid battery manufacturing area sources from title V permitting requirements in this rule will not adversely affect public health, welfare, or the environment.

Furthermore, one of the primary purposes of the title V permitting program is to clarify, in a single document, the various and sometimes complex regulations that apply to sources in order to improve understanding of these requirements and to help sources to achieve compliance with the requirements. In this case, however, we do not believe that a title V permit is necessary to understand the requirements applicable to the lead acid battery manufacturing area sources. These plants are straightforward in design and are not covered by regulations with requirements that are very complicated to understand or implement. The permits we have examined for the Lead Acid Battery Manufacturing area source category currently consist of a single document that applies to all sources and to lead and the other criteria pollutants emitted. For these reasons, we do not find that title V permitting is necessary to improve understanding of and achieve compliance with these standards.

For the foregoing reasons, we are exempting the Lead Acid Battery Manufacturing area source category from title V permitting requirements.

D. Wood Preserving

As discussed in the proposal, we compared the title V monitoring, recordkeeping, and reporting requirements (factor one) to the requirements in the NESHAP for the Wood Preserving area source category. EPA determined that the management practices currently used at most facilities is GACT and the rule requires recordkeeping that serves as monitoring and deviation reporting to ensure compliance with the NESHAP. The monitoring component of the first factor favors title V exemption because title V is unnecessary to provide adequate monitoring for wood preserving area sources. Because the NESHAP requires management practices for certain treatment processes and requires recordkeeping designed to serve as monitoring, additional monitoring requirements that might be added under title V would be unnecessary to assure compliance. Monitoring other than recordkeeping is not practical or appropriate in this case because the requirements are management practices. Records are required to ensure that the management practices are followed, including records of the type of preservative treatment process used, the types and quantities of preservatives used, and charge records of retort pressure.

As part of the first factor, we have considered the extent to which title V could potentially enhance compliance for area sources covered by this final rule through recordkeeping or reporting requirements. For any affected wood preserving area source facility, the NESHAP requires an initial notification, a compliance status report, and deviations must be reported within 30 days. We considered the various title V recordkeeping and reporting requirements, including requirements for a 6-month monitoring report, deviation reports, and an annual certification in 40 CFR 70.6 and 71.6.

The wood preserving NESHAP also requires affected facilities to certify compliance with the management practices required by the rule. In addition, wood preserving facilities must maintain records showing compliance with the required management practices and report deviations. The information required in the deviation reports and records is similar to the information that must be provided in the deviation reports required under 40 CFR 70.6(a)(3) and 40 CFR 71.6(a)(3). We acknowledge that title V might impose additional compliance requirements on this category, but, as stated in the proposal, we conclude that the monitoring, recordkeeping and reporting requirements of the NESHAP for wood preserving are sufficient to ensure compliance with the provisions of the NESHAP, and title V would not significantly improve those compliance requirements.

Under the second factor, we determine whether title V permitting would impose a significant burden on the area sources in the category and whether that burden would be aggravated by any difficulty the source may have in obtaining assistance from the permitting agency. Subjecting any source to title V permitting imposes certain burdens and costs that do not exist outside of the title V program. The EPA estimated that the average cost of obtaining and complying with a title V permit was $38,500 per source for a 5-year permit period, including fees. See Information Collection Request for Part 70 Operating Permit Regulations, January 2000, EPA ICR Number 1587.05. The EPA does not have specific estimates for the burdens and costs of permitting wood preserving area sources; however, there are certain source activities associated with the part 70 and 71 rules. These activities are mandatory and impose burdens on the source. They include reading and understanding permit program guidance and regulations; obtaining and understanding permit application forms; answering follow-up questions from permitting authorities after the application is submitted; reviewing and understanding the permit; collecting records; preparing and submitting monitoring reports on a 6-month or more frequent basis; preparing and submitting prompt deviation reports, as defined by the State, which may include a combination of written, verbal, and other communications methods; collecting information, preparing, and submitting the annual compliance certification; preparing applications for permit revisions every 5 years; and, as needed, preparing and submitting applications for permit revisions. In addition, although not required by the permit rules, many sources obtain the contractual services of professional scientists and engineers (consultants) to help them understand and meet the permitting program's requirements. The ICR for part 70 provides additional information on the overall burdens and costs, as well as the relative burdens of each activity described here. Also, for a more comprehensive list of requirements imposed on part 70

sources (hence, burden on sources), see the requirements of 40 CFR 70.3, 70.5, 70.6, and 70.7.

In assessing the second factor for wood preserving facilities, we found that over 90 percent of the 393 plants are small businesses, most with only a few employees. These small sources lack the technical resources needed to comprehend and comply with permitting requirements and the financial resources needed to hire the necessary staff or outside consultants. As discussed above, title V permitting would impose significant economic and non-economic costs on these area sources, and, accordingly, we conclude that title V is a significant burden for sources in this category. Most are small businesses with limited resources, and under title V they would be subject to numerous mandatory activities with which they would have difficulty complying, whether they were issued a standard or a general permit. Furthermore, given the large number of sources in the category and the relatively small size, it would likely be difficult for them to obtain assistance from the permitting authority. Thus, we find that factor two strongly supports title V exemption for wood preserving facilities.

The third factor, which is closely related to the second factor, is whether the costs of title V permitting for these area sources would be justified, taking into consideration any potential gains in compliance likely to occur for such sources. We explained above under the second factor that the economic and non-economic costs of compliance with title V would impose a significant burden on most of the 393 wood preserving facilities. We also concluded in considering the first factor that, while title V might impose additional requirements, the monitoring, recordkeeping and reporting requirements in the NESHAP assure compliance with the management practices imposed in the NESHAP. In addition, below in our consideration of the fourth factor we find that there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Because the costs, both economic and non-economic, of compliance with title V are so high, and the potential for gains in compliance is low, title V permitting is not justified for this source category. Accordingly, the third factor supports title V exemptions for wood preserving area sources.

The fourth factor we considered in determining if title V is unnecessarily burdensome is whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP without relying on title V permits. In the proposal, we considered whether there are State programs in place to enforce these area source NESHAP. We stated that we believe that the State programs are sufficient to assure compliance with these NESHAP. We also noted that EPA retains authority to enforce these NESHAP anytime under CAA sections 112, 113, and 114. We concluded that title V permitting is ''unnecessary'' to assure compliance with these NESHAP because the statutory requirements for implementation and enforcement of these NESHAP by the delegated States and EPA are sufficient to assure compliance with these area source NESHAP without title V permits. We also noted that small business assistance programs required by CAA section 507 may be used to assist area sources that have been exempted from title V permitting. Also, States and EPA often conduct voluntary compliance assistance, outreach, and education programs (compliance assistance programs), which are not required by statute. We determined that these additional programs will supplement and enhance the success of compliance with these area source NESHAP and concluded that in light of all of the above, there are implementation and enforcement programs in place that are sufficient to assure compliance with these NESHAP without relying on title V permitting.

In applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data available to demonstrate that States were not only enforcing the provisions of the area source NESHAP that we exempted, but that the States were also providing compliance assistance to ensure that the area sources were in the best position to comply with the NESHAP. See 70 FR 75325–75326. In proposing this rule, we did not have similar data available on the specific enforcement as in the Exemption rule, but we have no reason to think that States will be less diligent in enforcing this NESHAP. See 70 FR 75326. In fact, States must have adequate programs to enforce the section 112 regulations and provide assurances that it will enforce all NESHAP before EPA will delegate the program. See 40 CFR part 63, subpart E.

In light of all of the above, we conclude that there are implementation and enforcement programs in place that are sufficient to assure compliance with the Wood Preserving NESHAP without relying on title V permitting.

Balancing the four factors for this area source category strongly supports the proposed finding that title V is unnecessarily burdensome. While title V might add additional compliance requirements if imposed, we concluded that there would not be significant improvements to the compliance requirements in the NESHAP because the requirements in this final rule are specifically designed to assure compliance with the standards and management practices imposed on this area source category. We also concluded that the economic and non-economic costs of compliance with title V, in conjunction with the likely difficulty this large number of small sources would have obtaining assistance from the permitting authority, would impose a significant burden on the sources. We determined that the high relative costs would not be justified given that there is likely to be little or no potential gain in compliance if title V were required. And, finally, there are adequate implementation and enforcement programs in place to assure compliance with the NESHAP. Thus, we conclude that title V permitting is ''unnecessarily burdensome'' for the Wood Preserving area source category.

In addition to evaluating whether compliance with title V requirements is ''unnecessarily burdensome'', EPA also considered at proposal, consistent with guidance provided by the legislative history of section 502(a), whether exempting the Wood Preserving area source category from title V requirements would adversely affect public health, welfare, or the environment. Exemption of the Wood Preserving area source category from title V requirements would not adversely affect public health, welfare, or the environment because the level of control would remain the same if a permit were required. The title V permit program does not impose new substantive air quality control requirements on sources, but instead requires that certain procedural measures be followed, particularly with respect to determining compliance with applicable requirements. As stated in our consideration of factor one for this category, title V would not lead to significant improvements in the compliance requirements applicable to existing or new area sources.

Furthermore, one of the primary purposes of the title V permitting program is to clarify, in a single document, the various and sometimes complex regulations that apply to sources in order to improve understanding of these requirements and to help sources to achieve

compliance with the requirements. In this case, however, placing all requirements for the sources in a title V permit would do little to clarify the requirements applicable to the sources or assist them in compliance with those requirements because of the simplicity of the sources and the NESHAP, and the fact that these sources are not subject to other NESHAP or to other requirements under the CAA. We have no reason to think that new sources would be substantially different from the existing sources. In addition, we explained in the Exemption Rule that requiring permits for the large number of area sources could, at least in the first few years of implementation, potentially adversely affect public health, welfare, or the environment by shifting State agency resources away from assuring compliance for major sources with existing permits to issuing new permits for these area sources, potentially reducing overall air program effectiveness. For the final rule, we conclude that title V exemptions for the wood preserving area sources will not adversely affect public health, welfare, or the environment for all of the reasons explained above.

For the foregoing reasons, we are exempting the Wood Preserving area source category from title V permitting requirements.

V. Summary of Comments and Responses

We received a total of 18 comments on the proposed NESHAP from seven industry trade associations, representatives of eight affected facilities, one environmental group, and two State agencies during the public comment period. Sections V.A through V.J of this preamble provide responses to the significant public comments received on the proposed NESHAP.

A. Basis for Area Source Standards

Comment: One commenter stated that EPA's decision to issue GACT standards pursuant to section 112(d)(5), instead of MACT standards pursuant to section 112(d)(2) and (d)(3), for six of the seven area source categories at issue in the proposed rule is arbitrary and capricious because EPA provided no rationale for its decision to issue GACT standards. The commenter makes this argument for the following six source categories: Acrylic and modacrylic fibers production, carbon black production, chemical manufacturing: Chromium compounds, flexible polyurethane foam production/flexible polyurethane foam fabrication, and lead acid battery manufacturing.

Response: As the commenter itself recognizes, in section 112(d)(5), Congress gave EPA explicit authority to issue alternative emission standards for area sources. Specifically, section 112(d)(5), which is entitled ''Alternative standard for area sources,'' provides:

> With respect *only* to categories and subcategories of area sources listed pursuant to subsection (c) of this section, the Administrator *may, in lieu of* the authorities provided in paragraph (2) and subsection (f) of this section, elect to promulgate standards or requirements applicable to sources in such categories or subcategories which provide for the use of generally available control technologies or management practices by such sources to reduce emissions of hazardous air pollutants. (*Emphasis added*).

There are two critical aspects to section 112(d)(5). First, section 112(d)(5) applies only to those categories and subcategories of area sources listed pursuant to section 112(c). The commenter does not dispute that EPA listed the six area source categories noted above pursuant to section 112(c)(3). Second, section 112(d)(5) provides that for area sources listed pursuant to section 112(c), EPA *''may, in lieu of''* the authorities provided in section 112(d)(2) and 112(f), elect to promulgate standards pursuant to section 112(d)(5). Section 112(d)(2) provides that emission standards established under that provision ''require the maximum degree of reduction in emissions'' of HAP (also known as MACT). Section 112(d)(3), in turn, defines what constitutes the ''maximum degree of reduction in emissions'' for new and existing sources. See section 112(d)(3).[5] Webster's dictionary defines the phrase ''in lieu of'' to mean ''in the place of'' or ''instead of.'' See Webster's II New Riverside University (1994). Thus, section 112(d)(5) authorizes EPA to promulgate standards under section 112(d)(5) that provide for the use of generally available control technologies or management practices (GACT), *instead of* issuing MACT standards pursuant to section 112(d)(2) and (d)(3). The statute does not set any condition precedent for issuing standards under section 112(d)(5) other than that the area source category or subcategory at issue must be one that EPA listed pursuant to section 112(c), which is the case here.[6]

The commenter argues that EPA must provide a rationale for issuing GACT standards under section 112(d)(5), instead of MACT standards. The commenter is incorrect, however. Had Congress intended that EPA first conduct a MACT analysis for each area source category and only if cost or some other reason made applying the MACT standard inappropriate for the category would EPA be able to issue a standard under section 112(d)(5), Congress would have stated so expressly in section 112(d)(5). Congress did not require EPA to conduct any MACT analysis, floor analysis or beyond-the-floor analysis, before the Agency could issue a section 112(d)(5) standard. Rather, Congress authorized EPA to issue GACT standards for area source categories listed under section 112(c)(3), and that is precisely what EPA has done in this rulemaking.

Although EPA has no obligation to justify why it is issuing a GACT standard for an area source category as opposed to a MACT standard, EPA must set a GACT standard that is consistent with the requirements of section 112(d)(5) and have a reasoned basis for its GACT determination. As explained in the proposed rule and below, in determining what constitutes GACT for a particular area source category, EPA evaluates the control technologies and management practices that reduce HAP emissions that are generally available for the area source category. See 72 FR 116638. The legislative history supporting section 112(d)(5) provides that EPA may consider costs in determining what constitutes generally available control technologies or management practices for the area source category (GACT).[7] EPA cannot consider cost in setting MACT floors,

[5] Specifically, section 112(d)(3) sets the minimum degree of emission reduction that MACT standards must achieve, which is known as the MACT floor. For new sources, the degree of emission reduction shall not be less stringent than the emission control that is achieved in practice by the best-controlled similar source, and for existing sources, the degree of emission reduction shall not be less stringent than the average emission limitation achieved by the best-performing 12 percent of the existing sources for which the Administrator has emissions information. Section 112(d)(2) directs EPA to consider whether more stringent—so called beyond-the-floor limits—are technologically achievable considering, among other things, the cost of achieving the emission reduction.

[6] Section 112(d)(5) also references section 112(f). See CAA section 112(f)(5) (entitled ''Area Sources'' and providing that EPA is not required to conduct a review or promulgate standards under section 112(f) for any area source category or subcategory listed pursuant to section 112(c)(3) and for which an emission standard is issued pursuant to section 112(d)(5)).

[7] Additional information on the definition of ''generally available control technology or management practices'' (GACT) is found in the Senate report on the 1990 amendments to the Clean Air Act (S. Rep. No. 101–228, 101st Cong. 1st session. 171–172). That report states that GACT is to encompass: . . . methods, practices and techniques which are commercially available and appropriate for application by the sources in the category considering economic impacts and the technical capabilities of the firms to operate and maintain the emissions control systems.

pursuant to section 112(d)(3). Congress plainly recognized that area sources differ from major sources, which is why Congress permitted EPA to consider costs in setting GACT standards for area sources under section 112(d)(5), but did not permit that consideration in setting MACT floors for major sources. This important dichotomy between section 112(d)(3) and section 112(d)(5) provides further evidence that Congress sought to do precisely what the title of section 112(d)(5) states—provide EPA the authority to issue ''[a]lternative standards for area sources.'' EPA properly issued standards for the area source categories at issue here under section 112(d)(5), and as demonstrated below, EPA has a reasoned basis for each of its GACT determinations.

Finally, even accepting, for arguments sake, the commenter's assertion that EPA must provide a rationale basis for setting a GACT standard as opposed to a MACT standard, we did so in the proposed rule. In the proposal, we explained that we can and do consider costs and economic impacts in determining GACT. We also explained that the facilities in the source categories at issue here are already well controlled for the Urban HAP for which the source category was listed pursuant to section 112(c)(3). See 72 FR 16638. We believe the consideration of costs and economic impacts is especially important for the well-controlled area sources at issue in this final action because, given current well-controlled levels, a MACT floor determination, where costs cannot be considered, could result in only marginal reductions in emissions at very high costs for modest incremental improvement in control for the area source category.

Comment: One commenter stated that EPA's alternative proposal (72 FR 16647) that GACT is no further emissions reduction for existing area sources in three source categories (chromium compounds manufacturing, carbon black production, and acrylic and modacrylic fibers production) is unlawful and arbitrary. The commenter stated that the Agency provided no basis whatsoever for concluding that GACT is no further emission reduction. In particular, the commenter claimed that EPA provided no basis for concluding that: (1) Chromium compounds manufacturers cannot reduce their emissions of such pollutants through the use of generally available control measures, (2) carbon black manufacturers cannot reduce all their emissions of HAP at least to the 98 weight percent reduction or 20 ppmv standards, and (3) acrylic and modacrylic fibers manufacturers cannot reduce their emissions of HAP at least to the levels EPA has identified as GACT.

Response: In the preamble to the proposed rule for the Acrylic and Modacrylic Fibers Production area source category, we solicited comments as follows:

> We are alternatively proposing that GACT for this existing area source is no further emission reduction. We request comment on the basis, consistent with section 112(d)(5), for asserting that GACT is no further control for the existing source. We request comment on this issue because the standard proposed above will not result in any emission reductions beyond what is already required by the State permit to which the existing facility is already subject.

We included the same request for comments in the preamble for the Chemical Manufacturing: Chromium Compounds area source category and the Carbon Black Production area source category. We are not finalizing this approach in the final rule. Rather, we are finalizing the proposed emissions standards with minor changes.

B. Proposed NESHAP for Acrylic and Modacrylic Fibers Production Area Sources

Comment: One commenter stated that EPA's decision to reject steam stripping of wastewater streams as GACT for the one existing area source plant on cost effectiveness grounds is unlawful and arbitrary. The commenter asserted that in the proposed rule, EPA did not dispute that steam stripping was commercially available and appropriate and did not claim that the economic impact was too great. The commenter further asserted that EPA presented only its own subjective views on cost effectiveness, which are not relevant under section 112(d)(5).[8] According to the commenter, EPA's decision to reject steam stripping is arbitrary because the Agency did not consider the relevant factors (availability, appropriateness, and cost) in determining what constitutes GACT. The commenter further stated that EPA failed to explain why it based its rejection of steam stripping on its claims about cost effectiveness or to explain why it did not consider the reductions cost effective.

Response: As stated in the preamble to the proposed rule (72 FR 16638, April 4, 2007):

> Determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category. We also consider the standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. In appropriate circumstances, we may also consider technologies and practices at area and major sources in similar categories to determine whether such technologies and practices could be considered generally available for the area source category at issue. Finally, as noted above, in determining GACT for a particular area source category, we consider the costs and economic impacts of available control technologies and management practices on that category.

Prior to proposal, we reviewed the generally available control technologies and management practices that have been applied to wastewater at the one existing acrylic and modacrylic fibers area source plant. This plant has a wastewater stream with a low concentration of AN, and the wastewater is processed in a wastewater treatment system to remove organic compounds and degrade the AN. We also considered the control technologies and management practices employed at major sources in this category for treating wastewater streams and determined that the major sources were treating similar low-HAP concentration wastewater streams in the same manner as the area sources in this category. We also evaluated the feasibility of steam stripping to remove the AN even though it was not employed in the category for low-HAP concentration wastewater streams. We stated at proposal that steam stripping the wastewater stream would require a capital expenditure of $700,000 with a recurring total annualized cost of $630,000 per year. We stated that, assuming a 90 percent removal rate, the emissions reduction from steam stripping for the existing area source facility would be 7 tpy. The cost effectiveness would be $90,000 per ton of AN.[9] We determined that steam stripping of the wastewater stream at the only known existing area source was not appropriate for application for the source because it was not cost effective. See *e.g.*, *Husqvarna AB* v. *EPA*, 349 U.S. App. DC 118, 254 F.3d 195, 201 (DC Cir. 2001) (Finding EPA's decision to consider costs on a per ton of emissions removed basis reasonable because CAA section 213 did not mandate a specific method of cost analysis). Consequently,

[8] The commenter cites legislative history, noting that GACT must reflect the ''methods, practices and techniques that are commercially available and appropriate for application by the sources in the category considering economic impacts'' (72 FR 16638, quoting S. Rep. No. 101–228, at 171–172).

[9] We recognize that in other contexts the effectiveness of steam stripping is 96 percent, which results in a cost effectiveness of $85,000 per ton of AN.

we concluded that GACT was the plant's current management practice of processing the water in a wastewater treatment system.

In response to comments, we evaluated plants in similar industrial categories (*e.g.*, the synthetic organic chemical manufacturing industry subject to subpart G in 40 CFR part 63) and found that the general management practice for low-HAP concentration wastewater streams is to process the water in a wastewater treatment system similar to that employed by the existing acrylic and modacrylic area source. We conclude here that the current practice employed at the existing facility is GACT and, consistent with our finding at proposal, stream stripping is not GACT for this area source category.

Comment: One commenter stated that the proposed rule for existing sources was very specific to the one area source plant that EPA identified and stated that it should more appropriately be based on efficiencies or concentrations to allow some operating flexibility. While the commenter acknowledged that this facility is the only acrylic fiber manufacturer currently known to be an area source, the commenter believed that future facilities may struggle to comply with such site-specific requirements. Specifically, the commenter suggested that the proposed emissions limit for polymerization process equipment, which is expressed in terms of pounds per hour (lb/hr), should be written more generally for different types of processes and control equipment that might be used and should require a control efficiency or outlet concentration. According to the commenter, this would more closely match the approach provided for new sources which used efficiency and concentration limits.

The commenter also noted that the control device parameter operating limit for existing sources specifies the water flow rate of the scrubbers. The commenter stated that the standard should require the operating parameters to be established based on performance testing. The commenter asserted if past testing is used and parameters were previously set, this should still be acceptable. According to the commenter, this approach would allow the existing facility flexibility to change these parameters based on performance testing should it become necessary.

Response: We agree that the proposed emission limit for process vents is very site-specific to the one known area source plant. We are providing existing sources with the option of complying with the standards for new sources. Although the standards for new and existing sources are expressed in different formats, both standards require the same level of emission control, and both ensure that the technology identified as GACT is in place. Thus, the compliance alternative we are adopting in the final rule provides an equivalent level of control and additional flexibility for existing sources to demonstrate compliance with the NESHAP.

We also agree with the commenter's suggestion about establishing operating limits for the scrubbers during a performance test and have revised the rule accordingly. The scrubber water flow must be monitored during the performance test, and the test must demonstrate compliance with the emission limit. The operating limit for scrubber water flow is determined from the lowest average flow rate during any test run that shows compliance with the emissions limit.

C. Proposed NESHAP for Carbon Black Production Area Sources

Comment: Two commenters stated that there are no area sources in the source category producing carbon black by the furnace or thermal processes. The commenters believed that the 2002 National Emissions Inventory (NEI) incorrectly designated the Degussa Engineered Carbon facility in Belpre, Ohio, as an area source. Both commenters claimed that the emissions reported in the NEI and the 2005 Toxics Release Inventory (TRI) from this facility, which are below the major source thresholds, represent levels after control but that the uncontrolled ''potential to emit'' emissions are considerably above the major source thresholds.

The commenters asserted that this facility was identified as the only existing area source in the category and was used to form the basis for GACT. The commenters stated that EPA determined GACT based on this mistaken identification of the Belpre, Ohio facility as an area source. The commenters requested that EPA reconsider its GACT determination in light of the fact that the source considered in making such a determination is a major source and that GACT determinations require considerations of economics and a technical feasibility for the smaller sources outside of the major source category. The commenters stated that GACT for area sources should be less stringent than MACT for major sources due to the financial and technical considerations that would apply to a smaller area source.

Response: The identification of the Degussa plant in Belpre, OH as an area source was due in part to the information in the NEI and TRI as suggested by the commenters. We also reviewed the plant's title V permit, which expires in December 2007. The permit indicated that the plant was a major source of criteria pollutants and not a major source of HAP emissions. The permit also did not indicate that the plant was subject to the MACT standard in subpart YY (40 CFR part 63). While we were aware of the plant's recent permit renewal application that incorporated the provisions of subpart YY, it was still unclear whether the plant was a major source of HAP. However, since one of the commenters is the plant itself, we accept that we made an error in considering this facility to be an area source.

In light of this new information, we reevaluated our GACT determination for existing carbon black area sources. As stated in the proposal preamble (72 FR 16638, April 4, 2007):

> Determining what constitutes GACT involves considering the control technologies and management practices that are generally available to the area sources in the source category. We also consider the standards applicable to major sources in the same industrial sector to determine if the control technologies and management practices are transferable and generally available to area sources. In appropriate circumstances, we may also consider technologies and practices at area and major sources in similar categories to determine whether such technologies and practices could be considered generally available for the area source category at issue. Finally, as noted above, in determining GACT for a particular area source category, we consider the costs and economic impacts of available control technologies and management practices on that category.

Given that there are no current area sources, we examined all existing carbon black plants, which happen to be all major sources. Those sources have applied technologies to reduce organic HAP emissions from main unit process vent streams with concentrations of 260 ppmv or greater. The control technologies typically used for this source category are flares and incinerators. These control technologies have also been widely applied to many emission sources in other similar industrial source categories, such as process vents at petroleum refineries and chemical plants. These control technologies are therefore generally available.

Even if by some mechanism an existing major source becomes an existing area source, that facility would already have the necessary controls in

place and the facility would incur no additional costs in response to this final NESHAP. The facility would not be able to remove or discontinue use of any of the controls because they would likely exceed the major source thresholds (i.e., the commenters pointed out that their potential to emit based on emissions before control exceeds major source thresholds). Further, the controls were installed to meet permit limits for criteria pollutants, and these requirements would not change just because a source became an area source of HAP emissions.

Accordingly, after considering the availability of the above-identified control technologies, which provide the most effective control of HAP emissions from these processes, their demonstrated applicability to carbon black facilities and similar emission sources, and their reasonable costs for vent streams with concentrations above 260 ppmv, we are finalizing the standard for carbon black area sources set forth in the proposal.

Comment: One commenter stated that EPA's decision to provide a 260 ppmv applicability cutoff in the proposed rule for carbon black producers is based on factors that are irrelevant to the establishment of GACT standards under section 112(d)(5) and devoid of any rational explanation. According to the commenter, EPA determined that GACT for carbon black manufacturing is either a 98 weight-percent reduction in HAP emissions or a 20 ppmv concentration standard. The commenter claimed that EPA proposed to allow sources to meet an alternative 260 ppmv standard. According to the commenter, EPA's only explanation for allowing sources to emit 13 times as much HAP as its own GACT standard would allow is that ''this cutoff represents the lowest control device inlet concentration reported at one of the best-controlled facilities'' and ''we do not have available information to indicate that the single existing area source controls process vent emissions with concentrations below this level.'' The commenter asserted that EPA did not explain the relevance of either of those claims to its determination of GACT. According to the commenter, the control device inlet concentration at any given source is in no way indicative of the emissions level that can be achieved by the technology that EPA itself has recognized as GACT and therefore, it is irrelevant to the GACT determination. The commenter also claimed that because control device inlet information is irrelevant under section 112(d)(5), EPA's decision to base an alternative GACT decision on such information is arbitrary and that EPA's complete failure to explain why it would base its GACT decision on such information or why it believed that such information is even relevant to the determination of GACT is also arbitrary.

The commenter stated that to the extent EPA based its decision on the fact that the single source currently in the area source carbon black category does not currently control vent emissions streams below the 260 ppmv level, its decision is unlawful. The commenter asserted that EPA's obligation under section 112(d)(5) is to base standards on control measures that are commercially available and appropriate for the category. According to the commenter, the fact that a source has not already voluntarily controlled its emission streams below a given level does not mean that control technology is not commercially available for use on such streams or that the use of such technology is not appropriate. The commenter stated that EPA did not even suggest that using a flare or incinerator to control emissions from vent streams with concentrations below 260 ppmv is either technically or economically infeasible.

Response: As noted above, other commenters reported that the facility originally identified as the only existing area source in this category (upon which the proposed GACT requirements were based) is in fact a major source. Therefore, as we stated in the previous response, we reevaluated GACT for this category and determined that for sources with process vent stream emissions of 260 ppmv or greater, the technology that applies at major sources (i.e., flares or incinerators) is transferable to area sources. We have no emissions data for process vent streams below 260 ppmv, as the major sources are not required to control below this level.

As an initial matter, we reject the commenter's statement that control device inlet concentration is not relevant. The inlet concentration and other stream characteristics (*i.e.*, the characteristics of the uncontrolled emission stream) are directly related to both the effectiveness and the cost of a control device. For example, the heating value of components of the inlet stream is a key component in the effectiveness and cost of a flare. Therefore, the concentration affects flame stability, emissions, and flame structure. A lower concentration (and thus lower heating value) produces a cooler flame that does not favor combustion kinetics and is also more easily extinguished. While these limitations can sometimes be overcome through the use of auxiliary fuels, this increases the costs. Therefore, we believe that the use of concentration is an appropriate consideration in determining GACT for this source category.

Flares and incinerators are established control technologies that are generally available for this source category for POM, which is the Urban HAP for which this source category was listed. Therefore, we analyzed the potential impacts associated with a requirement to control process vent streams with organic HAP concentrations of 260 ppmv or less. We estimate that the cost effectiveness of controlling a 260 ppmv stream with a flare would be around $19 million per ton of POM emission reduction (carbon black production was listed as an area source category based on emissions of POM). The cost effectiveness of an incinerator was estimated to be almost $25 million per ton of POM reduction. We believe that the costs of requiring the control of process vent streams with organic HAP concentrations less than 260 ppmv are cost prohibitive and therefore do not represent methods, practices, and techniques which are generally available for application by the sources in this category. Therefore, the final rule retains the 260 ppmv applicability threshold.

D. Proposed NESHAP for Chemical Manufacturing Area Sources: Chromium Compounds

Comment: One commenter objected to the proposed standard requiring plants to operate a capture system that collects gases and fumes from each emissions source and conveys the gases to a PM control device because, according to the commenter, EPA did not say how efficient either the capture system or the PM control device must be. The commenter also stated that EPA appears to indicate that any capture system and control device will do, but the commenter acknowledged that EPA did provide equations that appear to establish numerical limits on PM emissions on a pounds per hour basis. The commenter stated that EPA's apparent assumption that all PM control is the same and equally sufficient for controlling emissions from this source is at odds with the record evidence and is arbitrary.

According to the commenter, not all PM controls are equally effective. The commenter stated that ''it is plain from the discussion of PM controls provided by both EPA itself and ICAC that PM controls vary widely in effectiveness, and is plain that chromium compound manufacturers could reduce their emissions of hexavalent chromium and

other HAP by using more effective PM controls.'' Examples given by the commenter include more effective fabric filters such as filters with better fabric or better baghouse design and more effective scrubbers.

According to the commenter, EPA did not consider the possibility of requiring any controls other than those that are currently in use and did not discuss which technologies are currently available, their effectiveness, or how much they cost. The commenter asserted that EPA's rejection of more effective controls without even considering them is arbitrary and capricious.

Response: We disagree with the commenter's statement that EPA concluded that any capture system or any control device is, as the commenter implies, sufficient in the abstract to comply with the NESHAP. EPA established numerical emissions limits for chromium, using PM as a surrogate, and the emissions limits are established by equations set forth in the rule. The commenter stated that the equations ''appear'' to establish numerical emission limits, and, in fact, the equations do establish such limits on a pounds per hour basis, and the commenter's implication that they do not is unsupported.

Further, we disagree with the commenter that we assumed that all PM control devices are equally effective. We proposed an emissions standard for the metal HAP at issue using PM as a surrogate. The PM emissions standard identified as GACT was based on control technologies that are generally available, considering cost, and represent a level of control that has been achieved at the two existing chromium compound manufacturing facilities.

As we discussed earlier, in determining GACT for area sources, we examine the demonstrated and generally available controls at area sources in the source category. See 72 FR 16638, April 4, 2007. We also consider the standards applicable to major sources in the category and determine if those controls are generally available and transferable to area sources. See 72 FR 16638, April 4, 2007. In addition, in appropriate circumstances, we may consider technologies employed at similar industrial source categories. See 72 FR 16638, April 4, 2007. We also consider cost and economic impacts of generally available control technologies or management practices on a source category in determining GACT. See 72 FR 16638, April 4, 2007.

In this case, at proposal, we evaluated the control technologies that are used by the existing chromium compound manufacturing area source facilities. The two processes with the greatest emissions potential are the high temperature operations of the rotary kilns used for roasting the chromite ore and the processes used for quenching the hot kiln roast. Both plants use a combination of wet scrubbers and electrostatic precipitators in series for one or both of these processes. This combination of wet scrubbers and electrostatic precipitators has been demonstrated as effective for this source category and is generally available.[10] Thus, we established GACT based on the current controls employed at the two area sources in this category. We did not find that the costs and economic impacts of compliance would be significant because the controls that we determined were generally available in the category were being employed at the existing facilities, and nothing in the record indicated that the costs would be prohibitive for new sources.

There are no major sources in this category, and we did not consider similar source categories at proposal. In response to comments, however, we have evaluated similar primary metal industries. We have found that electrostatic precipitators, often in combination with scrubbers, the same controls employed by the emissions sources in this category, are the commonly used control devices for the smelting or roasting operations in other primary metal industries, including primary steel, primary copper, and primary zinc production. We affirm our conclusion that the proposed controls are GACT for this area source category. The proposed standard, with minor changes discussed elsewhere, is finalized in this rulemaking.

Comment: One commenter requested clarification of the performance test requirements. The commenter pointed out that for an existing facility, the proposed rule allows certification of compliance with the emission limits based on a previous performance test conducted within the past 5 years; otherwise, a facility must conduct tests to demonstrate initial compliance. The commenter noted that the proposed rule conflicted with the General Provisions table which indicates that performance test requirements apply to an existing source only if the permitting authority requests the tests. The commenter stated that he initially understood that EPA would require initial performance tests only if requested by the permitting authority. According to the commenter, the two affected plants that produce chromium compounds from chromite ore are currently performing adequate monitoring, recordkeeping, and reporting to demonstrate compliance with the proposed emissions limits, and any decision to require performance tests should be at the discretion of the permitting agency.

Response: We acknowledge that the current title V permits for the affected plants require performance testing only at the request of the permitting authority. However, the final rule requires performance testing if a valid performance test has not been conducted within the 5 years prior to the effective date of the final rule. We found that performance tests have not been conducted within the past 5 years at the two existing plants, and a few minor emissions sources have never been tested. An initial performance test or a recent performance test is very important to ensure that the control devices are operating as designed and can be shown to meet the applicable emissions limit. Although the plants have performed the monitoring, reporting, and recordkeeping required by their permits, we cannot correlate the monitoring results to the performance of the control devices to ensure the emissions limits are met unless a performance test has been conducted to demonstrate this. Once a performance test has demonstrated compliance, we will have assurance that subsequent monitoring will ensure that the emissions sources continue to operate as designed and as demonstrated by the performance test.

The commenter is correct in that there were conflicting entries in the General Provisions table of the proposed rule for performance test requirements. We have corrected the table in the final rule to clarify the performance test requirements as discussed above.

Comment: One commenter requested that EPA clarify the definition of a ''new'' affected source. The commenter asked if a new affected source includes new or reconstructed equipment at an existing site, or is a new affected source a new or reconstructed chromium chemical manufacturing facility. The commenter suggested that EPA add a definition of ''chromium compounds manufacturing facility.''

Response: The proposed rule stated that the ''affected source'' is ''each chromium compounds manufacturing facility.'' We have added a definition of ''chromium compounds manufacturing facility'' to further clarify what the affected source is. A new affected source is one for which construction or

[10] The effectiveness of these controls is shown by the TRI reporting for the North Carolina plant with a 95 percent reduction in chromium emissions since the control technology identified as GACT was installed.

reconstruction commenced after April 4, 2007. The definitions of ''construction'' and ''reconstruction'' are given in the General Provisions (40 CFR 63.2).

Comment: One commenter objected to the proposed requirements for initial control device inspections for plants that are already implementing the inspection requirements according to an established schedule in an approved title V permit. The commenter claimed that the proposed requirement for initial inspections will result in increased costs and result in shutdown of key emissions sources and control devices that are not due for inspection until 2008 and 2009. The commenter provided an example of kilns that must be shutdown and cooled before the internal components of the electrostatic precipitators can be inspected. According to the commenter, the shutdown and cooling period for the kilns takes several days and results in significant cost in terms of lost production and other expenses. As an alternative, the commenter suggested that EPA require an initial inspection prior to startup for installed control devices which have not operated within 60 days of the compliance date.

Response: Our intent at proposal was to codify the control device inspection requirements currently in the permit of the North Carolina plant because we determined that these requirements represent what is generally available, and this plant had inspection requirements that were more comprehensive than those at the other area source plant. The proposed inspection requirements included daily, monthly, annual, and biennial inspections for various control devices and their components. To perform the internal inspection, it is necessary to shut down the process (the high temperature kilns) and allow the system to cool down. We agree that the 24-month period as stated in the permit is reasonable for this particular type of inspection. It provides flexibility to the facility to perform the inspection during periods of regularly scheduled kiln maintenance, which minimizes the disruption to production and the large expense that would result from a mandatory initial inspection and subsequent annual inspections. The operating processes also have to be shut down for the annual internal inspections of baghouses and wet scrubbers. Consequently, we have revised the rule to state that an initial inspection of the internal components of electrostatic precipitators does not have to be performed if an inspection has been performed within the past 24 months. The next inspection must be performed within 24 months of the last inspection, and subsequent inspections of the internal components must be performed for each following 24-month period. Similarly, an initial inspection of the internal components of baghouses and wet scrubbers does not have to be performed if an inspection has been performed within the past 12 months. The next inspection must be performed within 12 months of the last inspection, and subsequent inspections of the internal components must be performed for each following 12-month period. However, we continue to require initial inspections that do not require shutting down the process and control device, such as inspecting baghouses and ductwork for leaks, verifying the proper operation of electrostatic precipitator parameters, and water flow to wet scrubbers.

We agree with the commenter's suggestion that we require an initial inspection prior to startup for installed control devices which have not operated within 60 days of the compliance date. This inspection can be performed before process operations resume and thus would not require a disruptive shutdown.

Comment: One commenter asked if annual inspection requirements for wet scrubbers apply to cyclonic scrubbers prior to wet electrostatic precipitators. According to the commenter, this is not a requirement in the current title V permit and would not be consistent with EPA's approach of codifying the monitoring requirements currently applicable to the North Carolina plant.

Response: Our intent at proposal was to be consistent with the established inspection requirements in the title V permit of the North Carolina plant. The permit requires internal inspections of electrostatic precipitators, wet scrubbers, and baghouses that are used as primary control devices. Internal inspections of cyclonic scrubbers that are installed upstream of the electrostatic precipitators are not required by the permit, nor do we believe they are needed. Unlike electrostatic precipitators, cyclonic scrubbers do not have complex internal components subject to failure that would affect emissions control performance. Consequently, we are clarifying that annual internal inspections of cyclonic scrubbers installed upstream of electrostatic precipitators are not required. However, we continue to require monitoring for the cyclonic scrubbers, including the presence of water flow and visual inspections of the system ductwork and scrubber unit for leaks.

Comment: One commenter requested changes to the process description in the preamble to the proposed rule and corresponding revisions and clarifications to Table 1 of the proposed rule which identifies the regulated process equipment. The commenter stated that the table should be titled ''Emissions Sources'' instead of ''Emissions Points''; the ''filter for sodium chromate slurry'' should be changed to ''residue dryer system''; the ''reactor used to produce chromic acid'' should be changed to the ''melter used to produce chromic acid''; and the ''sodium dichromate evaporation unit'' should be removed from the table because there are no chromium emissions from this unit at either plant.

Response: We agree that the table is a listing of emission ''sources'', and we will clarify that the production of chromic acid occurs in a ''melter.'' We also agree that we inadvertently included the filter for sodium chromate slurry, which is not an emissions source, and should have included instead the residue dryer system, which is an emissions source. We identified the sodium dichromate evaporation unit as a process at the chromium compound manufacturing plants. However, this process operates under a vacuum to reduce the water content at temperatures far below the temperatures that would be needed to volatilize chromium compounds in the wet slurry into PM. This process is not an emissions source for PM and was therefore not identified in the title V permit as an emission source. Consequently, we are deleting the sodium dichromate evaporation unit from the table of emissions sources.

Comment: One commenter noted that the General Provisions table in the NESHAP should be revised to eliminate duplication of entries for § 63.10(e)(1) and (e)(2).

Response: We agree and have corrected the table to eliminate the duplication.

E. Proposed NESHAP for Flexible Polyurethane Foam Production and Fabrication Area Sources

Comment: One commenter stated that one HAP emitted by flexible polyurethane foam production and fabrication facilities is methylene chloride. According to the commenter, EPA indicated in the preamble that methylene chloride is used by stabstock foam plants as an ABA and an equipment cleaner, and that molded and rebond foam plants use methylene chloride as a mold release agent and an equipment cleaner. The commenter noted that for slabstock foam plants EPA

proposed either to prohibit the use of methylene chloride or to establish certain requirements for its use.

The commenter asserted that EPA must prohibit the use of methylene chloride at slabstock facilities based on the following statement from the proposal preamble: ''[b]ased on recent contacts with the industry, we have verified that every known slabstock facility has converted their process to use a non-HAP technology (72 FR 16649).'' The commenter stated that EPA's failure to require the use of non-HAP technology it acknowledges to be GACT is unlawful and arbitrary. Also arbitrary, according to the commenter, is the Agency's failure to explain its decision to allow facilities to continue to use methylene chloride with various control requirements, given its own conclusion that a ban on the use of methylene chloride is GACT.

Response: The proposed regulation addressed eight different types of situations where methylene chloride could potentially be used at flexible polyurethane foam production and flexible polyurethane foam fabrication facilities. For seven of these potential use situations, the proposed rule prohibited the use of methylene chloride. The lone situation where the proposed rule did not prohibit the use of methylene chloride was as an ABA in the production of slabstock flexible polyurethane foam.

By only selecting a portion of the language from the preamble related to the determination of GACT for methylene chloride usage as an ABA at slabstock facilities and presenting it out of context, the commenter has misrepresented EPA's rationale in the proposal preamble. The entire discussion, from which the commenter quoted selectively, is as follows:

> The NESHAP requirements, along with the revisions to the Occupational Safety and Health Administration (OSHA) permissible exposure and short-term exposure limits for methylene chloride (63 FR 50711, September 22, 1998), caused slabstock foam facilities to investigate, evaluate, and install technologies to reduce or eliminate the use of methylene chloride as an ABA at their facilities. These technologies include alternative formulations to reduce the amount of methylene chloride ABA needed, alternative non-HAP ABAs (acetone, liquid carbon dioxide), controlled or variable pressure foaming, and forced cooling. Based on recent contacts with the industry, we have verified that every known slabstock facility has converted their process to utilize one of these technologies * * *. Consequently, we propose to conclude that emissions limitations based on the application of these technologies are generally available (GACT) for new and existing sources.

See 72 FR 16649, April 4, 2007.

As explained in the proposal, we determined that some of the technologies listed could result in the complete elimination of the use of methylene chloride as an ABA. However, we also discussed alternative formulations that reduce, but do not eliminate, the amount of methylene chloride ABA needed in the list of generally available control measures. Alternative formulations can include, among other things, chemical additives and alternative polyols. These measures ''reduce'' the use of methylene chloride as an ABA without eliminating it. In fact, a specific relevant example of these technologies was provided by a slabstock flexible polyurethane foam production facility that commented on the proposal. This commenter reports that their facility has reduced methylene chloride emissions by 77 percent through the reformulation of foam grades and marketing to encourage customers to switch to foam grades that the commenter's company can produce without methylene chloride. This is a clear example of the ''alternative formulations'' referred to in the proposal preamble as one of the technologies we determined to be GACT. Therefore, we reject the commenter's assertion that we concluded that GACT was a ban on the use of methylene chloride as an ABA and did not make any revisions in the final rule as a result of this comment.

Comment: One commenter opposed the proposal to prohibit all use of methylene chloride-based adhesives. The commenter stated that there may be certain applications where adhesives based on methylene chloride provide superior performance and can be used in compliance with Occupational Safety and Health Administration (OSHA) worker exposure limits. The commenter only mentions loop slitter operations.

Response: In our proposal, we specifically requested comments on ''whether and under what circumstances methylene-chloride based adhesives (*e.g.*, in small specialty applications) *are being used or might be used* by the foam fabrication industry, and what quantities are or might be involved in such applications'' (72 FR 16649) (*emphasis added*). The commenter's general assertion that there may be applications where methylene chloride-based adhesives provide superior performance is not responsive to our request for comments. As for loop slitters, we found at proposal that the industry has discontinued the use of methylene chloride-based adhesives, and we concluded at proposal that GACT was the prohibition of the use of such adhesives for loop slitter operations. At this time, we are not aware of any specific applications where methylene chloride adhesives provide performance that cannot be achieved by alternative adhesives and where they can be used in compliance with OSHA worker exposure limits. Consequently, the final rule retains the prohibition of the use of methylene chloride adhesives in flexible polyurethane foam fabrication operations.

Comment: One commenter indicated that a less burdensome program should be provided for flexible polyurethane foam producers that utilize methylene chloride as an ABA. This commenter's company is a small business that employs less than 100 people. They operate one facility that produces and fabricates flexible polyurethane foam. The commenter pointed out that their facility produces thousands of pounds of flexible polyurethane foam per month, while typical facilities throughout the country produce millions of pounds per month.

The commenter provided information on the numerous improvements that have been made at this facility to reduce methylene chloride usage and emissions. They have eliminated all uses of methylene chloride except as an ABA, and have made significant reductions (over 75 percent) in its usage as an ABA.

The commenter indicated that this facility has a federally enforceable synthetic minor permit which caps methylene chloride emissions on a monthly and 12-month rolling basis. The permit also incorporates many of the monitoring and recordkeeping requirements of the foam production MACT rule.

The commenter suggested that, for this facility, the proposed rule is unnecessarily complicated in view of the environmental benefits realized by the programs already in place. The commenter suggested several amendments to the rule to reduce the burden. In general, the commenter requested that the methylene chloride ABA emissions caps and the monitoring and reporting provisions in their permit be provided as an acceptable option for meeting the requirements of the area source rule for slabstock foam production.

The commenter cited numerous areas where capital expenditures would be necessary to comply with the proposed rule including the purchase of control equipment (storage tank vapor balance line), computer software, IFD and density testing equipment, and meter calibration equipment. The commenter

noted that the initial investment would also include costs for computer program development and operator training. The commenter estimated that the total initial capital costs would range from $25,000 to $35,000. The commenter also stated that the proposed rule would result in increased annual costs of between $28,000 and $45,000 for testing, training, calibrations, maintenance, tracking, recordkeeping and data entry, and reporting.

Response: The proposed rule included an emissions limitation format for the use of methylene chloride as an ABA, along with associated monitoring, recordkeeping, and reporting provisions, that allows flexibility in how sources choose to comply (for example, individual emissions point requirements versus a source-wide overall limit, monthly compliance versus 12-month rolling average). We believe that this flexibility outweighs any perceived complexity of the format of the emissions limitation and the monitoring and recordkeeping requirements, and we do not believe that the costs of these requirements are inappropriate for this category. Therefore, we did not make any changes to the proposed rule in response to these comments.

Comment: This same commenter stated that the compliance date of the proposed rule for slabstock flexible polyurethane foam production sources (the date of publication of the final rule) is not reasonable since the final rule will result in the need for equipment, operating, monitoring, and administrative changes.

Response: The commenter cited numerous areas where capital expenditures would be necessary to comply with the proposed rule including the purchase of control equipment (storage tank vapor balance line), computer software, IFD and density testing equipment, and meter calibration equipment. The commenter also indicated that computer program development will be necessary and operators will need to be trained. Given the changes that will be necessary to comply with the final rule, we agree that it is reasonable to extend the compliance date for existing sources. Therefore, the final rule has a compliance date for slabstock foam affected sources electing to continue to utilize methylene chloride as an ABA to 1 year from the date of publication of the final rule.

Comment: One commenter did not understand how facilities that do not release a HAP, specifically methylene chloride, could be subject to the NESHAP for flexible polyurethane foam production and fabrication. In support, the commenter recited the definition of an area source as ''any stationary source of hazardous air pollutants that is not a major source * * *.'' The commenter believed the proposed rule conflicts with the definition of an area source because the proposed NESHAP has specific requirements for facilities that do not release any HAP. The commenter asked how this is possible.

Response: The first paragraph of the proposed rule, § 63.11414(a), states ''You are subject to this subpart if you own or operate an area source of hazardous air pollutant (HAP) emissions that meets the criteria in paragraph (a)(1) or (2) of this section.'' Facilities that are not sources of any hazardous air pollutants, including methylene chloride, are not subject to the rule. Therefore, the comment that ''the proposed NESHAP has specific requirements for facilities that do not release any HAP'' is incorrect.

F. Proposed NESHAP for Lead Acid Battery Manufacturing Area Sources

Comment: One commenter stated that EPA's proposed GACT determination for battery manufacturers does not satisfy section 112(d)(5). The commenter claimed that rather than evaluating the potential reduction measures that are commercially available and appropriate for application by battery manufacturers, EPA considered only one option: requiring all sources to comply with the 1982 NSPS for PM, with which 53 out of 58 sources are already in compliance anyway. The commenter stated that section 112(d)(5) requires the use of ''methods, practices and techniques'' which are commercially available and appropriate for application by the sources in the category considering economic impacts.'' The commenter said that there are ''methods, practices, and techniques'' that are commercially available and appropriate for application by battery manufacturers. The commenter specifically cited a 1998 EPA report that specifies a 2:1 air to cloth ratio as the ''[g]enerally safe design level'' for lead oxide in ordinary baghouses. With respect to processes currently controlled with fabric filters, the commenter stated that there are more effective fabric filters, and with respect to processes currently controlled by impingement scrubbers, there are fabric filters or more effective scrubbers (*e.g.* venturi scrubbers). According to the commenter, EPA has not required GACT standards that reflect the use of these technologies, nor even considered doing so. The commenter concluded that EPA's rule contravenes section 112(d)(5).

The commenter also stated that EPA's rule is arbitrary and that EPA provided no rationale for failing to consider methods, practices and techniques that are commercially available and would reduce battery manufacturers' emissions significantly. The commenter stated that EPA does not claim that more efficient control measures are not commercially available for any of the relevant processes, nor does the Agency claim that they are too costly. In particular, according to the commenter, EPA does not even say what the cost for more efficient technologies would be or why it thinks they might be too costly. The commenter stated that EPA failed to consider any approach other than using the 1982 NSPS without providing any explanation for its choice. The commenter stated that it appears EPA's only consideration was whether the 1982 NSPS might be too stringent to be GACT, and EPA did not entertain the possibility that more protective standards might be achievable through the use of generally available measures. According to the commenter, EPA's rule is not only arbitrary but unlawful in that it reflects a complete abrogation of the EPA's statutory duty to evaluate currently available control measures and set standards that reflect them.

Response: Section 112(d)(5) authorizes the Administrator to ''elect to promulgate standards or requirements applicable to sources in such [area source] categories or subcategories which provide for the use of generally available control technologies or management practices [GACT] by such sources to reduce emissions of hazardous air pollutants.'' As we discussed earlier, in determining GACT for area sources, we examine the demonstrated and generally available controls at area sources in the source category. See 72 FR 16638, April 4, 2007. We also consider the standards applicable to major sources in the category and determine if those controls are generally available and transferable to area sources. See 72 FR 16638, April 4, 2007. In addition, in appropriate circumstances, we may consider technologies employed by sources in similar industrial categories. See 72 FR 16638, April 4, 2007. We also consider cost and economic impacts of generally available control technologies or management practices on a source category in determining GACT. See 72 FR 16638, April 4, 2007.

For the lead acid battery area sources, at proposal, we considered the controls and technologies employed by the area sources in the category. We found that

the smallest sources in this category were not subject to the lead acid battery NSPS. We also found that there are approximately 60 known area sources in this category and no known major sources. We concluded that the requirements of the NSPS represented generally available control technologies or management practices for this source category. Moreover, although not stated in the proposal, because of the large number of area sources in this category, we concluded that we did not need to look at sources in similar industrial categories for determining what is generally available to the lead acid battery manufacturing category.

At proposal, we found that the NSPS addressed lead (not PM) emissions from six types of processes at lead acid battery manufacturing plants: (1) Grid casting, (2) paste mixing, (3) three-process operations, (4) lead oxide manufacturing, (5) lead reclamation, and (6) other lead emitting processes. The commenter stated that more effective ''methods, practices, and techniques'' including fabric filters with air to cloth ratios between 2:1 and 3.5:1 (and specifically 2:1 for lead oxide) are available, and cited this as evidence that significant advancements in technology have occurred since the NSPS was promulgated in 1982. The 1998 EPA report that the commenter cited indicates that the generally safe design level for lead oxide in ordinary baghouses is, in fact, the same 2:1 air to cloth ratio required in the NSPS standard for lead oxide manufacturing, which is incorporated into this rule. Thus, contrary to the commenter's assertion, the emission limitations in the NSPS were in this case based on the specific technology addressed by the commenter and that technology is considered state-of-the-art today.

The commenter assumed that the category's current lead emissions reflect a 98 percent reduction from uncontrolled emissions, and suggested that substantial emissions reductions would be obtained through setting new standards that reflect a 99.9 percent reduction. We are unsure on what the commenter based this assertion. For fabric filters with a 6:1 air to cloth ratio in the NSPS, which is the control basis for the standards for paste mixing, three-process operations, and other lead emitting processes in this rule, we attributed 99 percent lead emissions reduction. We attributed a 90 percent lead removal efficiency for impingement scrubbers, the control basis for the standards for the grid casting and lead reclamation processes. Therefore, while there would be an incremental reduction in emissions if technologies that achieve 99.9 percent lead emission reduction were required by this area source NESHAP, the reductions would not be as substantial as predicted by the commenter.

We did not discuss the costs of imposing additional control requirements on this category at proposal, but we do so here in response to this comment. We estimate that the total capital investment for a typical plant to upgrade to 99.9 percent controls could range from more than $600,000 to almost $1.7 million, depending on the technologies selected. We estimate annual costs of this additional control for a typical plant would be around $1.2 million per year due to increased operator labor costs, maintenance labor and material costs, electricity and other utility costs, taxes and insurance, and capital recovery costs. This cost represents almost 5 percent of the total shipments for an average lead acid battery establishment. We do not believe that these costs and potential economic impacts are appropriate for application by the area sources in this category. The costs incurred per ton of lead emissions reduced would be around $450,000 to $500,000 based on replacing existing control devices or installing additional devices to increase control efficiency up to 99.9 percent.

In conclusion, we believe that the technologies upon which the proposed standards were based are generally available to this industry. Moreover, we believe that the costs of requiring every area source lead acid battery facility to install technologies that achieve additional incremental emission reductions, beyond those established in these NESHAP, would be prohibitive. Thus, we have not revised the emission standards in the rule in response to this comment.

Comment: One commenter stated that in addition to emitting more than 26 tpy of lead, lead acid battery manufacturers emit more than 47 tpy of other HAP; among these are HAP that are not metals, do not behave like PM in the stack gas, and therefore cannot be captured or reduced through the use of PM control devices. According to the commenter, section 112(d) requires emission standards for each HAP listed in section 112(b). Assuming that the Agency does not have to set separate standards for each HAP when issuing standards under section 112(d)(5), the commenter stated that EPA still has an obligation to address all of the HAP that a category emits when setting GACT standards. The commenter claimed that EPA has an obligation to address the HAP emitted by battery manufacturing plants that are not captured by PM control devices, and the failure to do so was unlawful. The commenter also stated that the failure to consider the HAP that are not emitted as PM and to explain why they were not addressed is arbitrary and capricious.

Response: Section 112(k)(3)(B) of the CAA requires EPA to identify at least 30 HAP emitted from area sources that pose the greatest threat to public health in the largest number of urban areas (the ''Urban HAP'') and identify the area source categories that will be listed pursuant to section 112(c)(3). Section 112(c)(3), in relevant part, provides:

> The Administrator shall, * * *, and pursuant to subsection (k)(3)(B) of this section, list, based on actual or estimated aggregate emissions of a listed pollutant or pollutants, sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the area source emissions of the 30 hazardous air pollutants that present the greatest threat to public health in the largest number of urban areas are subject to regulation under this section.

Thus, section 112(c)(3) requires EPA to list sufficient categories or subcategories of area sources to ensure that area sources representing 90 percent of the emissions of the 30 Urban HAP are subject to regulation.

Section 112(d)(1) requires the Administrator to promulgate regulations establishing emissions standards for each area source of HAP listed for regulation pursuant to section 112(c). EPA identified the 30 Urban HAP that pose the greatest threat to public health in the Integrated Urban Air Toxics Strategy. In that same document, EPA listed the source categories that account for 90 percent of the Urban HAP emissions.

We have interpreted the above provisions of section 112 to require EPA to regulate only those Urban HAP emissions for which an area source category is listed pursuant to section 112(c)(3). As stated elsewhere in this preamble, Congress chose to treat areas sources differently from major sources under section 112 and other sections of the CAA, such as title V. Under section 112, Congress determined that the Agency should identify 30 HAP emitted from area sources that posed the greatest threat to public health in the largest number of urban areas. The statute then directs the Agency to list sufficient area source categories to account for 90 percent of the emissions of each Urban HAP and to subject those listed source categories to regulation. Section 112(d)(1) requires emissions standards for area sources of HAP ''listed pursuant to subsection (c)''. Area sources listed pursuant to subsection (c)(3) are listed

only because they emit one of the 30 listed Urban HAP and the Agency has identified the category as one that will ensure that we satisfy the requirement to subject area sources representing 90 percent of the area source emissions of the 30 Urban HAP to regulation.

Moreover, section 112(c)(3) explicitly refers to section 112(k)(3)(B). Section 112(k)(3)(B) addresses the national strategy to control HAP from area sources in urban areas. The focus of the strategy is on the 30 HAP that pose the greatest threat to public health in the largest number of urban areas. As noted above, in 1999, EPA issued the Integrated Air Toxics Strategy in response to section 112(k)(3)(B). In that strategy, we identified the 30 Urban HAP, which are the HAP that pose the greatest threat to public health in the largest number of urban areas, and we identified, consistent with section 112(c)(3), the area source categories that account for 90 percent of those Urban HAP.

Pursuant to sections 112(c)(3) and 112(k)(3)(B), the Lead Acid Battery Manufacturing area source category was listed due to emissions of two specific pollutants: lead and cadmium. We recognize that other HAP, including Urban HAP which did not form the basis of the section 112(c)(3) listing decision, may be emitted from lead acid battery manufacturing facilities. To the extent that the other HAP are Urban HAP, we identified other area source categories that emit those Urban HAP in higher amounts and have determined that subjecting other area source categories to regulation for these HAP will achieve the 90 percent requirement in the CAA. In conclusion, consistent with section 112, we are not obligated to address HAP other than Urban HAP for which this area source category was listed pursuant to section 112(c)(3), which, as noted above, are lead and cadmium.

Comment: One commenter requested clarification of the dates for compliance compared to the key NESHAP General Provisions for existing sources. The commenter explained that in § 63.9(b) of the General Provisions and based on communications with EPA, initial notification by existing facilities is due 120 calendar days after final rule publication. According to the commenter, the proposed compliance date provision in § 63.11422 could be read to suggest notification is not due for a year. The commenter found similar confusion between § 63.9(h) and § 63.11422 pertaining to notices of compliance from existing sources. The commenter suggested the following clarification language:

Note: Initial notification by existing facilities, required by § 63.9(b), is due within 120 calendar days after the date of publication of the final rule in the **Federal Register**. Notices of compliance by existing facilities, required by § 63.9(h), is due on the 60th day following the 1 year deadline for compliance with the new standard.

Response: We agree that the timing for notifications should be clarified, and we have made the suggested clarifications in the final rule.

G. Proposed NESHAP for Wood Preserving Area Sources

Comment: Eight commenters questioned the need for the standards and stated there is no need to regulate wood preserving area sources. The commenters further stated that the wood preserving industry is an insignificant source of the four HAP to be regulated by this proposed standard. According to the commenters, the industry has not used methylene chloride in the wood treating process since 1992, and emissions of the three other HAP covered in this rule are negligible according to the commenters. Moreover, the commenters claimed that EPA was unable to identify ''any other management practices or control technologies that would provide additional emissions reductions in a cost effective manner.''

Response: The emission levels used for the Integrated Urban Air Toxics Strategy were based on the section 112(k) 1990 inventory. Following issuance of the Integrated Urban Air Toxics Strategy in 1999, EPA revised the area source category listing in the Strategy to also include the wood preserving area source category (67 FR 70428, November 22, 2002). We also recognize that the wood preserving industry has changed over the past 15 years and Urban HAP emissions have been reduced. The regulations being finalized today will ensure that future emissions from wood preserving operations will be limited to the same level that is being generally achieved today and was determined to be GACT. Without such regulations, there is nothing that would limit future Urban HAP emissions from a new process or wood preservative.

Comment: Eight commenters requested clarification regarding non-applicable preservative chemistries. The commenters asserted that as currently worded, the provision in § 63.11428(a) would seem to encompass any wood preserving operation, including those that treat household commodities with ammoniacal copper quat (ACQ) or copper azole (CA)—waterborne, copper-based preservatives that do not contain chromium, arsenic, dioxins, or methylene chloride. The commenters understood that EPA did not intend to regulate wood preservatives that do not contain the Urban HAPs for which the wood preserving category was listed. Accordingly, the commenters requested that EPA revise § 63.11428(a) to clarify, as it does in § 63.11430 and in the preamble to the proposed rule, that the wood preserving area source standard applies only to facilities ''using a treatment process with any wood preservatives containing chromium, arsenic, dioxins, or methylene chloride.''

Response: The applicability of the wood preserving area source rule (as described in § 63.11428(a)) includes any wood preserving operation located at an area source. However, only those facilities that are using a wood preservative containing chromium, arsenic, dioxins, or methylene chloride are subject to the management practice requirements in § 63.11430 and the other requirements in § 63.11432. Additional language was added to § 63.11430(c) and § 63.11432 to clarify that only those area source facilities using any wood preservative containing chromium, arsenic, dioxins, or methylene chloride have to prepare and operate according to a management practice plan to minimize air emissions, and comply with the initial notification and reporting requirements. If your area source wood preserving facility is only using preservatives such as ACQ or CA, then you are not subject to the requirements in §§ 63.11430 and 63.11432.

Comment: Several commenters requested that EPA provide flexibility in the interpretation of the term ''fully drain'' as that term is used in § 63.11430(c)(6): ''For the pressure treatment process, fully drain the retort prior to opening the retort door.'' The commenters stated that as a practical matter, it is not possible to ''fully drain'' 100 percent of all residual preservative before a retort door is opened and that the quantity of material involved is small. The commenters requested confirmation that the trace amount of residual preservative which may remain in the cylinder when the retort door is opened does not violate the § 63.11430(c)(6) requirement to ''fully drain'' the retort before opening the door, and that the language in § 63.11430(c)(6) be amended to read ''For the pressure treatment process, fully drain the retort to the extent practical, prior to opening the retort door.''

Response: We agree with the commenters and have made the

following change to § 63.11430(c)(6) in the final standards: ''For the pressure treatment process, fully drain the retort to the extent practicable, prior to opening the retort door.'' An example of what is practicable for fully draining the retort would be a retort operation where any residual preservative drips into the door pit sump.

H. Proposed Exemption of Certain Area Source Categories from Title V Permitting Requirements

Comment: One commenter believed that EPA's proposal to exempt four of the five area source categories addressed in its proposal (acrylic and modacrylic fibers production, flexible polyurethane foam production and fabrication, lead acid battery manufacturing, and wood preserving) from title V permitting requirements is unlawful and arbitrary. In support of this assertion, the commenter cited CAA section 502(a), which provides that EPA may exempt area source categories from title V permitting requirements if compliance with such requirements is ''impracticable, infeasible or unnecessarily burdensome.'' See 42 U.S.C. 7661a(a). The commenter stated that EPA does not claim that such requirements are impracticable or infeasible for any of the four area source categories it proposes to exempt, but rather relies entirely on its claim that they would be ''unnecessarily burdensome.''

Response: Section 502(a) of the CAA states, in relevant part, that:

> * * * [t]he Administrator may, in the Administrator's discretion and consistent with the applicable provisions of this chapter, promulgate regulations to exempt one or more source categories (in whole or in part) from the requirements of this subsection if the Administrator finds that compliance with such requirements is impracticable, infeasible, or unnecessarily burdensome on such categories, except that the Administrator may not exempt any major source from such regulations. 42 U.S.C. 7661a(a).

The statute plainly vests the Administrator with discretion to determine when it is appropriate to exempt non-major (*i.e.* area) sources of air pollution from the requirements of title V. The commenter correctly notes that EPA based the proposed exemptions solely on a determination that title V is ''unnecessarily burdensome,'' and did not rely on whether the requirements of title V are ''impracticable'' or ''infeasible'', which are alternative bases for exempting area sources from title V.

To the extent the commenter is asserting that EPA must determine that all three criteria in CAA section 502 are met before an area source category can be exempted from title V, the commenter misreads the statute. The statute expressly provides that EPA may exempt an area source category from title V requirements if EPA determines that the requirements are ''impracticable, infeasible *or* unnecessarily burdensome.'' See CAA section 502 (*emphasis added*). If Congress had wanted to require that all three criteria be met before a category could be exempted from title V, it would have stated so by using the word ''and,'' in place of ''or''.

Comment: One commenter stated that in order to demonstrate that compliance with title V would be ''unnecessarily burdensome,'' EPA must show, among other things, that the ''burden'' of compliance is *unnecessary.* According to the commenter, by promulgating title V, Congress indicated that it viewed the burden imposed by its requirements as necessary as a general rule. The commenter maintained that the title V requirements provide many benefits that Congress viewed as necessary. Thus, in the commenter's view, EPA must show why for any given category, special circumstances make compliance unnecessary. The commenter believed that EPA has not made that showing for any of the categories it proposes to exempt.

Response: EPA does not agree with the commenter's characterization of the demonstration required for determining that title V is unnecessarily burdensome for an area source category. As stated above, the CAA provides the Administrator discretion to exempt an area source category from title V if he determines that compliance with title V requirements is ''impracticable, infeasible, or unnecessarily burdensome'' on an area source category. See CAA section 502(a). In December 2005, in a national rulemaking, EPA interpreted the term ''unnecessarily burdensome'' in CAA section 502 and developed a four-factor balancing test for determining whether title V is unnecessarily burdensome for a particular area source category, such that an exemption from title V is appropriate. See 70 FR 75320, December 19, 2005 (''Exemption Rule''). In addition to interpreting the term ''unnecessarily burdensome'' and developing the four-factor balancing test in the Exemption Rule, EPA applied the test to certain area source categories.

The four factors that EPA identified in the Exemption Rule for determining whether title V is unnecessarily burdensome on a particular area source category include: (1) Whether title V would result in significant improvements to the compliance requirements, including monitoring, recordkeeping, and reporting, that are proposed for an area source category (70 FR 75323); (2) whether title V permitting would impose significant burdens on the area source category and whether the burdens would be aggravated by any difficulty the sources may have in obtaining assistance from permitting agencies (70 FR 75324); (3) whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources (70 FR 75325); and (4) whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP for the area source category, without relying on title V permits (70 FR 75326).

In discussing the above factors in the Exemption Rule, we explained that we considered on ''a case-by-case basis the extent to which one or more of the four factors supported title V exemptions for a given source category, and then we assessed whether considered together those factors demonstrated that compliance with title V requirements would be 'unnecessarily burdensome' on the category, consistent with section 502(a) of the Act.'' See 70 FR 75323. Thus, we concluded that not all of the four factors must weigh in favor of exemption for EPA to determine that title V is unnecessarily burdensome for a particular area source category. Instead, the factors are to be considered in combination and EPA determines whether the factors, taken together, support an exemption from title V for a particular source category.

The commenter asserts that ''EPA must show * * * that the ''burden'' of compliance is unnecessary.'' This is not, however, one of the four factors that we developed in the Exemption Rule in interpreting the term ''unnecessarily burdensome'' in CAA section 502, but rather a new test that the commenter maintains EPA ''must'' meet in determining what is ''unnecessarily burdensome'' under CAA section 502. EPA did not re-open its interpretation of the term ''unnecessarily burdensome'' in CAA section 502 in the April 6, 2007 proposed rule for the categories at issue in this rule. Rather, we applied the four-factor balancing test articulated in the Exemption Rule to the source categories for which we proposed title V exemptions. Had we sought to re-open our interpretation of the term ''unnecessarily burdensome'' in CAA section 502 and modify it from what was articulated in the Exemption Rule,

we would have stated so in the April 6, 2007 proposed rule and solicited comments on a revised interpretation, which we did not do. Accordingly, we reject the commenter's attempt to create a new test for determining what constitutes ''unnecessarily burdensome'' under CAA section 502, as that issue falls outside the purview of this rulemaking.[11]

Moreover, even were the comment framed as a request to re-open our interpretation of the term ''unnecessarily burdensome'' in CAA section 502, which it is not, we would deny such request because we have a court-ordered deadline to complete this rulemaking by June 15, 2007, and we are not in a position to expand the scope of the rulemaking at this juncture. In any event, we believe that the commenter's position that ''EPA must show * * * that the ''burden'' of compliance is *unnecessary*'' is unreasonable and contrary to Congressional intent concerning the applicability of title V to area sources. Congress intended to treat area sources differently under title V as it expressly authorized the EPA Administrator to exempt such sources from the requirements of title V at his discretion. There are several instances throughout the CAA where Congress chose to treat major sources differently than non-major sources, as it did in section 502.[12] In addition, it is worth noting that although the commenter espouses a new interpretation of the term ''unnecessarily burdensome'' in CAA section 502 and attempts to create a new test for determining whether the requirements of title V are ''unnecessarily burdensome'' for an area source category, the commenter does not explain why EPA's interpretation of the term ''unnecessarily burdensome'' is arbitrary, capricious or otherwise not in accordance with law. We maintain that our interpretation of the term ''unnecessarily burdensome'' in section 502, as set forth in the Exemption Rule, is reasonable.

Finally, in this rule, we appropriately applied the four-factor balancing test set forth in the Exemption Rule to the particular area source categories at issue in this rule. In response to comments, we provide above a more detailed discussion of our consideration of the four factors for the source categories at issue. Based on our consideration of the four factors, we are taking final action to finalize the exemptions from title V for the acrylic and modacrylic fibers production, flexible polyurethane foam production and fabrication, lead acid battery manufacturing, and wood preserving categories.[13]

Comment: One commenter stated that exempting a source category from title V permitting requirements deprives both the public generally and individual members of the public who would obtain and use permitting information from the benefit of citizen oversight and enforcement that Congress plainly viewed as necessary. According to the commenter, the text and legislative history of the CAA provide that Congress intended ordinary citizens to be able to get emissions and compliance information about air toxics sources and to be able to use that information in enforcement actions and in public policy decisions on a State and local level. The commenter stated that Congress did not think that enforcement by States or other government entities was enough; if it had, Congress would not have enacted the citizen suit provisions, and the legislative history of the CAA would not show that Congress viewed citizens' access to information and ability to enforce CAA requirements as highly important both as an individual right and as a crucial means to ensuring compliance. According to the commenter, if a source does not have a title V permit, it is difficult or impossible—depending on the laws, regulations and practices of the State in which the source operates—for a member of the public to obtain relevant information about its emissions and compliance status. The commenter stated that likewise, it is difficult or impossible for citizens to bring enforcement actions. The commenter continued that EPA does not claim—far less demonstrate with substantial evidence, as would be required—that citizens would have the same ability to obtain compliance and emissions information about sources in the categories it proposes to exempt *without* title V permits. The commenter also said that likewise, EPA does not claim—far less demonstrate with substantial evidence—that citizens would have the same enforcement ability. Thus, according to the commenter, the exemptions EPA proposes plainly eliminate benefits that Congress thought necessary. The commenter claimed that to justify its exemptions, EPA would have to show that the informational and enforcement benefits that Congress intended title V to confer—benefits which the commenter argues are eliminated by the exemptions—are for some reason unnecessary with respect to the categories it proposes to exempt. The commenter concluded that EPA does not *acknowledge* these benefits or explain why they are unnecessary, and that for this reason alone, EPA's proposed exemptions are unlawful and arbitrary.

Response: Once again, the commenter attempts to create a new test for determining whether the requirements of title V are ''unnecessarily burdensome'' on an area source category. Specifically, the commenter argues that EPA does not claim or demonstrate with *substantial evidence* that citizens would have the same access to information and the same ability to enforce under these NESHAP, absent title V. The commenter's position represents a significant revision of the fourth factor that EPA developed in the Exemption Rule in interpreting the term ''unnecessarily burdensome'' in CAA section 502. For all of the reasons explained above, the commenter's attempt to create a new test for EPA to meet in determining whether title V is ''unnecessarily burdensome'' on an area source category cannot be sustained. This rulemaking did not re-open EPA's interpretation of the term ''unnecessarily burdensome'' in CAA section 502. Because the commenter's statements do not demonstrate a flaw in EPA's application of the four-factor balancing test to the specific facts of the source categories at issue here, which is the sole title V issue in this rulemaking, the comments provide no basis for the Agency to reconsider its proposal to exempt the area source categories from title V. Today, we finalize the

[11] If the commenter objected to our interpretation of the term ''unnecessarily burdensome'' in the Exemption Rule, it should have commented on, and challenged, that rule. Any challenge to the Exemption Rule is now time barred by CAA section 307(b). Although we received comments on the title V Exemption Rule during the rulemaking process, no one sought judicial review of that rule.

[12] See, *e.g.*, section 112(d)(5) (authorizing generally available control technologies or management practices in lieu of maximum achievable control technology standards for area sources); section 112(f)(5) (exempting area sources regulated under section 112(d)(5) from the 8-year residual risk review requirement); Compare, section 110(a)(2)(c) (requiring minor source permitting program without a detailed statutory structure) with section 165 (providing detailed permitting requirements for major sources locating in prevention of significant deterioration areas).

[13] In the Exemption Rule, in addition to determining whether compliance with title V requirements would be unnecessarily burdensome on an area source category, we considered, consistent with the guidance provided by the legislative history of section 502(a), whether exempting the area source category would adversely affect public health, welfare or the environment. See 72 FR 15254–15255, March 25, 2005. As shown above, after conducting the four-factor balancing test and determining that title V requirements would be unnecessarily burdensome on the area source categories at issue here, we examined whether the exemption from title V would adversely affect public health, welfare and the environment, and found that it would not.

exemptions proposed in the April 6, 2007 rule.

Moreover, as explained in the proposal and above, we considered implementation and enforcement issues in the fourth factor of the four-factor balancing test. Specifically, the fourth factor of EPA's unnecessarily burdensome analysis provides that EPA will consider whether there are implementation and enforcement programs in place that are sufficient to assure compliance with the NESHAP without relying on title V permits. See 70 FR 75326. In applying the fourth factor in the Exemption Rule, where EPA had deferred action on the title V exemption for several years, we had enforcement data available to demonstrate that States were not only enforcing the provisions of the area source NESHAP that we exempted, but that the States were also providing compliance assistance to ensure that the area sources were in the best position to comply with the NESHAP. See 70 FR 75325–75326. Nowhere in the Exemption Rule did the Agency state that we had to demonstrate that citizen enforcement would be identical absent title V before an area source category could be exempted from title V.

In applying the fourth factor here, EPA determined that there are adequate enforcement programs in place to assure compliance with the CAA. We do not have enforcement data available because we are only today finalizing the NESHAP at issue here. As stated in the proposal, however, States with delegated programs have enforcement and compliance assistance and implementation programs in place to enforce the provisions of these NESHAP. See 72 FR 16656. In fact, a State must have adequate programs to enforce the HAP regulations and provide assurances that it will enforce all NESHAP before EPA will delegate the program. See 40 CFR part 63, subpart E. The commenter does not challenge the conclusion that there are adequate State and Federal programs in place to enforce the NESHAP. Instead, the commenter provides an unsubstantiated assertion that information about compliance by the area sources with these NESHAP will not be as accessible to the public as information provided to a State pursuant to title V. In fact, the commenter does not provide any information that States will treat information submitted under these NESHAP differently than information submitted pursuant to a title V permit.

Even accepting the commenter's assertions that it is more difficult for citizens to enforce the NESHAP absent a title V permit, in evaluating the fourth factor in EPA's balancing test, EPA concluded that there are adequate implementation and enforcement programs in place to enforce the NESHAP. The commenter has provided no information to the contrary or explained how the absence of title V actually impairs the ability of citizens to enforce the provisions of these NESHAP. Furthermore, the fourth factor is one factor that we evaluated. As explained above, we considered that factor together with the other factors and determined that it was appropriate to finalize the proposed exemptions for the area source categories at issue in this rule.

Comment: One commenter explained that title V provides important monitoring benefits and stated that EPA admits that ''[o]ne way that title V may improve compliance is by requiring monitoring (including recordkeeping designed to serve as monitoring) to *assure* compliance with emission limitations and control technology requirements imposed in the standard'' (72 FR 16654). According to the commenter, EPA assumes that title V monitoring would not add any monitoring requirements beyond those required by the regulations for each category. The commenter said that with respect to acrylic and modacrylic fibers production, EPA states ''[b]ecause both the continuous and noncontinuous monitoring methods required by the proposed NESHAP would provide periodic monitoring, title V would not add any monitoring to the proposed NESHAP.'' Id. The commenter stated that EPA makes a similar claim with respect to lead acid battery manufacturing (72 FR 16655), and that such claims miss the point. As EPA admits, according to the commenter, title V does not merely require periodic monitoring; it requires monitoring to ''assure compliance.'' The commenter continued by stating that if additional monitoring is necessary to assure compliance, it must be required to satisfy title V, regardless of whether the underlying NESHAP provides for periodic monitoring. The commenter concludes that the ''burden'' imposed on a category by title V is not unnecessary unless EPA shows that, in all instances, the periodic monitoring requirements established in the underlying NESHAP for that category ''assure'' compliance. According to the commenter, EPA does not even claim—far less demonstrate with substantial evidence—that the monitoring requirements in the NESHAP for any of the categories it proposes to exempt ''assure'' compliance. The commenter stated that for this reason as well, its claim that title V requirements are ''unnecessarily burdensome'' is arbitrary and capricious, and its exemption is unlawful and arbitrary and capricious.

Response: The commenter asserts that ''EPA admits [that] title V does not merely require periodic monitoring; it requires monitoring to ''assure compliance.'' The commenter does not accurately characterize the Agency's statements in the proposal. We stated:

> One way that title V may improve compliance is by requiring monitoring (including recordkeeping designed to serve as monitoring) to assure compliance with the emissions limitations and control technology requirements imposed in the standard. The authority for adding new monitoring in the permit is in the *''periodic monitoring'' provisions of 40 CFR 70.6(a)(3)(i)(B) and 40 CFR 71.6(a)(3)(i)(B), which allow new monitoring to be added to the permit when the underlying standard does not already require ''periodic testing or instrumental or noninstrumental monitoring* (which may consist of recordkeeping designed to serve as monitoring).''

See 72 FR 16654 (*emphasis added*).

We nowhere state or imply that periodic monitoring is not sufficient to assure compliance. Moreover, the commenter's position that the Agency must make a specific finding that the monitoring in the proposed NESHAP assures compliance with the NESHAP is inconsistent with EPA's Final Rule Interpreting the Scope of Certain Monitoring Requirements for State and Federal Operating Permits Programs (71 FR 75422, December 15, 2006) (''Interpretive Rule''). That rule interprets title V of the Clean Air Act and its implementing regulations at 40 CFR 70.6(c)(1) and 71.6(c)(1) and the Clean Air Act requirements which they implement. Under the Interpretive Rule, if an applicable requirement, such as a NESHAP, contains periodic testing or instrumental or noninstrumental monitoring (*i.e.*, periodic monitoring), permitting authorities are not authorized to assess the sufficiency of or impose new monitoring requirements on a case-by-case basis. Federal standards promulgated pursuant to the 1990 Clean Air Act Amendments are presumed to obtain monitoring sufficient to assure compliance. Thus, consistent with this interpretation and as demonstrated in the proposed rule and above, title V would not add any monitoring requirements to the NESHAP because the NESHAP contains periodic monitoring.

The commenter also attempts to create a new test for consideration in determining what is ''unnecessarily

burdensome'' under CAA section 502. Specifically, the commenter argues that EPA must demonstrate with substantial evidence that, in all instances, the periodic monitoring requirements assure compliance. As explained above, this rulemaking did not re-open EPA's interpretation of the term ''unnecessarily burdensome'' in CAA section 502. For all the reasons explained above, we reject the commenter's attempt to create a new test for determining whether title V is unnecessarily burdensome on an area source category. Moreover, EPA considered monitoring in the first factor of the four-factor balancing test that it developed in the Exemption Rule. EPA appropriately applied that factor to the area source categories at issue in this rule.

As noted above, under the first factor, EPA considers whether title V would result in significant improvements to the compliance requirements that are proposed for the area source categories. See 70 FR 75323. It is in the context of this first factor that EPA evaluates the monitoring, recordkeeping and reporting requirements of the proposed NESHAP to determine the extent to which those requirements are consistent with the requirements of title V. See 70 FR 75323. As noted above, and in the proposed rule, we considered whether title V monitoring requirements would lead to significant improvements in the monitoring requirements in the proposed NESHAP and determined that they would not.

Specifically, EPA included in the NESHAP periodic monitoring it determined to be necessary to assure compliance. See 72 FR 16654–16655. In addition, for the Acrylic and Modacrylic Fibers Production area source category, the Lead Acid Battery Manufacturing area source category, the Flexible Polyurethane Foam Production area source category, and the Flexible Polyurethane Fabrication area source category, EPA found that title V would not add additional monitoring, and that determination is consistent with the title V Interpretive rule. See 72 FR 16654–16655. The commenter does not provide any evidence to support a claim that title V would add monitoring, consistent with our interpretation of title V in the Interpretive Rule, for any of these area source categories. For the Wood Preserving area source category, we imposed recordkeeping to serve as monitoring that was designed to document compliance with the management practices imposed on the industry. See 72 FR 16655. We concluded that title V would not add additional monitoring for this category because continuous monitoring is not necessary to ensure a reduction in HAP emissions for this category. We also concluded that the recordkeeping and reporting requirements in the rule are sufficient to assure compliance and that additional monitoring is not practical or necessary. The commenter did not take issue in its comment with the adequacy of the recordkeeping that serves as monitoring or the reporting requirements for the Wood Preserving area source category.

For the reasons described above, the first factor supports an exemption, and even if it did not, the four-factor balancing test requires EPA to examine the factors, in combination, and determine whether the factors, viewed together, weigh in favor of exemption. See 70 FR 75326. As explained above, we determined that the factors, weighed together, supported exemption of the area source categories from title V.

Comment: One commenter argued that title V provides important reporting certification benefits and that, specifically, plants must report deviations from emission standards and must certify at least annually whether they are in compliance with ''any applicable requirements.'' See 42 U.S.C. 7661b(b)(2). The commenter stated that EPA fails to point to any requirement in the NESHAP for any of the categories it proposes to exempt that requires plants to report each deviation from requirements, as title V does. The commenter disagrees with EPA that reporting requirements for certain operating requirements, such as the daily average water flow to a wet scrubber, are sufficient and states that none of the NESHAP contain certification requirements. The commenter also stated that the compliance certification requirement obliges plant operators to certify—subject to criminal penalties—whether their sources were in or out of compliance with emission standards. According to the commenter, Congress determined that this requirement was necessary *in addition* to reporting requirements, and that is why it enacted the compliance certification requirement. The commenter stated that it is not up to EPA to declare that it disagrees with Congress and find that compliance certification requirements are not necessary. The commenter acknowledged that it might be possible for EPA to show that compliance certification requirements are not necessary for some specific area source category based on that specific category's characteristics. The commenter said that EPA has not done that here, however, and instead offers the generic claim that it thinks quarterly reports are enough. Thus, the commenter believes that EPA has essentially taken the position that compliance certification is never necessary. The commenter also stated that EPA contravenes the CAA by excusing sources from a compliance obligation without meeting the requirement of showing that requirement to be unnecessary. Further, according to the commenter, EPA acts arbitrarily by finding the compliance certification is unnecessary without providing a rational basis for that claim. The commenter concluded that the recording requirements that exist under the individual NESHAP are no replacement for the recording requirements under title V, which require prompt reporting of all ''deviations'' from any applicable requirements, not just reporting of exceedances of EPA-selected operating requirements. According to the commenter, because EPA has not shown that reporting of selected operating requirements renders reporting of all deviations from any applicable requirements unnecessary, the EPA's exemptions are unlawful and arbitrary.

Response: In this comment, the commenter again argues that EPA must specifically demonstrate that all title V requirements, deviation reporting and annual compliance certifications in this instance, are unnecessary in isolation before EPA can lawfully exempt an area source category from title V. We do not agree. As explained above, we interpreted the term ''unnecessarily burdensome'' in CAA section 502 and developed the four-factor balancing test in the Exemption Rule, and that balancing test does not require a determination that every title V requirement is unnecessary. Instead, in the first factor we consider ''whether title V would result in significant improvements to the compliance requirement, including monitoring, recordkeeping, and reporting.'' As explained in the proposal preamble and noted above, we have determined that for these source categories title V would not result in significant improvements in compliance requirements.

The commenter argued that these NESHAP do not contain adequate deviation reporting requirements because the deviation reporting is limited to reporting on exceedances or variances of the operating requirements set forth in the standards. We are not clear what aspects of the deviation reporting contained in the NESHAP the commenter considers insufficient or what additional deviation reporting the commenter believes would be included

if title V applied. The proposed NESHAP contain deviation reporting requirements for each of the source categories that we are exempting from title V. In response to this comment, the Agency has re-evaluated the deviation requirements for these NESHAP and determined that any additional, unspecified, deviation reporting that title V might add would not lead to significant improvements in the compliance requirements finalized in this rulemaking.

The commenter also takes issue with EPA's conclusion that annual compliance certifications are not necessary for certain categories because of quarterly reporting requirements. The commenter implies that enforcement of the NESHAP is undermined without an annual compliance certification and states that EPA admitted that there are no certification requirements in the NESHAP. First, even absent the requirement to submit annual compliance certifications under the NESHAP, sources must nevertheless comply with all emission standards and requirements in the NESHAP. In addition, the Agency did not conclude that annual compliance certification is never necessary, but only that the annual compliance certification would not lead to significant improvements in the compliance requirements in the NESHAP because some of the NESHAP require quarterly reports. Furthermore, contrary to what the commenter states, and as discussed above in section IV of this preamble, there are certification requirements contained in the NESHAP (*e.g.*, initial certification of compliance status).

Moreover, we determined in our consideration of the fourth factor that there are adequate enforcement and implementation programs in place to assure compliance with the NESHAP and the commenter has provided no evidence that the lack of annual compliance certifications will undermine enforcement and implementation of the NESHAP.

Comment: One commenter believed EPA argued that its own belief that title V is a ''significant burden'' on area sources further justifies its exemption (72 FR 16655–16656). According to the commenter, regardless of whether EPA regards the burden as ''significant,'' the Agency may not exempt a category from compliance with title V requirements unless compliance is ''unnecessarily burdensome.'' The commenter stated that in any event, EPA's claims about the alleged significance of the burden of compliance is entirely conclusory and could be applied equally to any major or area source category. The commenter also stated that the Agency does not show that the compliance burden is especially great for any of the sources it proposes to exempt, and thus does not demonstrate that the alleged burden necessitates treating them differently from other categories by exempting them from compliance with title V requirements.

Response: The commenter appears to take issue with the formulation of the second factor of the four-factor balancing test. Specifically, the commenter states that EPA must determine that title V compliance is ''unnecessarily burdensome'' and not a ''significant burden'' as expressed in the second factor of the four factor balancing test. We note that the commenter in other parts of its comments on the title V exemptions argues that EPA must demonstrate that every title V requirement is ''unnecessary'' for a particular source category before an exemption can be granted but makes no mention of the ''burden'' of those requirements on area sources, but here the commenter argues that ''significant burden'' is not appropriate for the second factor. Notwithstanding the commenter's inconsistency, as explained above, the four-factor balancing test was established in the Exemption Rule and we did not re-open EPA's interpretation of the term ''unnecessarily burdensome'' in this rule.

Contrary to the commenter's assertions, we properly analyzed the second factor of the four-factor balancing test. See 70 FR 75320. Under that factor, EPA considers whether title V permitting would impose a significant burden on the area source categories and whether the burden would be aggravated by any difficulty the sources may have in obtaining assistance from permitting agencies. See 70 FR 75324. The commenter appears to assert that the second factor *must* be satisfied for EPA to exempt an area source category from title V, but, as explained above, the four factors are considered in combination. We have concluded that the second factor, in combination with the other factors, supports an exemption for the area source categories at issue.

Comment: According to one commenter, EPA argued that compliance with title V would not yield any gains in compliance with underlying requirements in the relevant NESHAP (72 FR 16656). The commenter stated that EPA's conclusory claim could be made equally with respect to any major or area source category. According to the commenter, the Agency provides no specific reasons to believe—with respect to any of the categories it proposes to exempt—that the additional informational, monitoring, reporting, certification, and enforcement requirements that exist in title V but not in these NESHAP would not provide additional compliance benefits. The commenter also stated that the only basis for EPA's claim is, apparently, its beliefs that those additional requirements never confer additional compliance benefits. According to the commenter, by advancing such argument, EPA merely seeks to elevate its own policy judgment over Congress' decisions reflected in the CAA's text and legislative history.

Response: The commenter mischaracterizes the first and third factors of the four-factor balancing test and takes out of context certain statements in the proposed rule concerning those factors.

First, the commenter incorrectly characterizes our statements in the proposed rule in applying the third factor. Under the third factor, EPA evaluates ''whether the costs of title V permitting for the area source category would be justified, taking into consideration any potential gains in compliance likely to occur for such sources.'' Contrary to what the commenter alleges, EPA did not state in the proposed rule that compliance with title V would not yield any gains in compliance with the underlying requirements in the relevant NESHAP, nor does factor three require such a determination.

Instead, consistent with the third factor, we considered whether the costs of title V are justified in light of any potential gains in compliance. In considering the third factor, we stated that, ''[b]ased on our consideration of factor 1 (described above) and factor 4 (described below), *we did not identify potential gains in compliance from title V permitting.* Therefore, we conclude that the costs of title V permitting for these area source categories are not justified.'' (72 FR 16656) (*emphasis added*).

Second, the commenter mischaracterizes the first factor by asserting that EPA must demonstrate that title V will provide no additional compliance benefits. But the first factor calls for a consideration of ''whether title V would result in *significant improvements to the compliance requirements,* including monitoring, recordkeeping, and reporting, that are proposed for an area source category.'' Thus, contrary to the commenter's assertion, the inquiry under the first factor is not whether title V will provide any compliance benefit, but rather whether it will provide significant

improvements in compliance requirements.

EPA applied the four-factor balancing test in determining whether title V was unnecessarily burdensome on the area source categories we are exempting from title V in this rule. This rulemaking did not re-open EPA's interpretation of the term ''unnecessarily burdensome'' in CAA section 502. Because the commenter's statements do not demonstrate a flaw in EPA's application of the four-factor balancing test to the specific facts of the source categories at issue here, which is the sole title V issue in this rulemaking, the comments provide no basis for the Agency to reconsider its proposal to exempt the area source categories from title V. Furthermore, EPA nowhere states, nor does it believe, that title V never confers additional compliance benefits as the commenter asserts.

Comment: According to one commenter, EPA argued that alternative State implementation and enforcement programs assure compliance with the underlying NESHAP without relying on title V permits (72 FR 16656). The commenter stated that again, however, EPA's claim is entirely conclusory and generic. The commenter also stated that the Agency does not identify any aspect of any of the underlying NESHAP showing that with respect to these specific NESHAPs—unlike all the other major and area source NESHAP it has issued without title V exemptions—title V compliance is unnecessary. Instead, according to the commenter, EPA merely pointed to existing State requirements and the potential for actions by States and EPA that are generally applicable to all categories (along with some small business and voluntary programs). The commenter said that absent a showing by EPA that distinguishes the sources it proposes to exempt from other sources, however, the Agency's argument boils down to the claim that it generally views title V requirements as unnecessary. The commenter stated that may be EPA's view, but it was not Congress's view when Congress enacted title V and it does not suffice to show that title V compliance is unnecessarily burdensome.

Response: The commenter again takes issue with the Agency's test for determining whether title V is unnecessarily burdensome, as developed in the Exemption Rule. Our interpretation of the term ''unnecessarily burdensome'' is not the subject of this rulemaking. To the extent the commenter asserts that our application of the fourth factor is flawed, we disagree. As explained in the proposal preamble and above, we considered the fourth factor and determined that there are adequate implementation and enforcement programs in place to assure compliance with the CAA, consistent with the fourth factor. As stated above, we do not have data available on the enforcement of these NESHAPs as in the Exemption Rule because, unlike in that rule, we are exempting the categories at the same time we are promulgating these NESHAPs. In the proposed rule, we did, however, explain that States with delegated programs have enforcement and compliance assistance programs in place to enforce the provisions of these NESHAPs (72 FR 16656). In addition, States must have adequate programs to enforce the HAP regulations and provide assurances that it will enforce all NESHAPs before EPA will delegate a program to the States. See 40 CFR part 63, subpart E. The commenter argues that the exemptions must fail because ''[t]he agency does not identify any aspect of any of the underlying NESHAP showing that with respect to these specific NESHAP—*unlike all the other major and area source NESHAP it has issued without title V exemptions*—title V compliance is unnecessary'' (*emphasis added*). The standard that the commenter proposes is not consistent with the standard the Agency established in the Exemption Rule and applied in the proposed rule in determining if title V is unnecessarily burdensome for the source categories at issue. Furthermore, the standard the commenter suggests is an impossible standard to meet.

Comment: One commenter stated that, as EPA concedes, the legislative history the CAA shows that Congress did not intend EPA to exempt source categories from compliance with title V unless doing so would not adversely affect public health, welfare, or the environment. See 72 FR 16654; 16656. Nonetheless, according to the commenter, EPA does not make any showing that its exemptions would not have adverse impacts on health, welfare and the environment. The commenter stated that instead, EPA offered only the conclusory assertion that ''the level of control would remain the same'' whether title V permits are required are not (72 FR 16656). The commenter continued by stating that EPA relied entirely on the conclusory arguments advanced elsewhere in its proposal that compliance with title V would not yield additional compliance with the underlying NESHAP. The commenter stated that those arguments are wrong for the reasons given above, and therefore EPA's claims about public health, welfare and the environment are wrong too. The commenter also stated that Congress enacted title V for a reason: to assure compliance with all applicable requirements and to empower citizens to get information and enforce the CAA. The commenter said that those benefits—of which EPA's proposed rule *deprives* the public—would improve compliance with the underlying standards and thus have benefits for public health, welfare and the environment. According to the commenter, EPA has not demonstrated that these benefits are unnecessary with respect to any specific source category, but again simply rests on its own apparent belief that they are never necessary. The commenter concluded that for the reasons given above, that attempt to substitute EPA's judgment for Congress' is unlawful and arbitrary.

Response: Congress gave the Administrator the authority to exempt area sources from compliance with title V if, in his discretion, the Administrator ''finds that compliance with [title v] is impracticable, infeasible, or unnecessarily burdensome.'' See CAA section 502(a). EPA has interpreted one of the three justifications for exempting area sources, ''unnecessarily burdensome'', as requiring consideration of the four factors discussed above. EPA applied these four factors to the Acrylic and Modacrylic Fibers Production area source category, the Lead Acid Battery Manufacturing area source category, the Flexible Polyurethane Foam Production and Fabrication area source categories, and the Wood Preserving area source category and concluded that requiring title V for these area source categories would be unnecessarily burdensome.

In addition to determining that title V would be unnecessarily burdensome on the area source categories for which we proposed exemptions, as in the Exemption Rule, EPA also considered, consistent with our interpretation of the legislative history, whether exempting the area source categories would adversely affect public health, welfare or the environment. As explained in the proposal preamble and above, we concluded that exempting the area source categories at issue in this rule would not adversely affect public health, welfare or the environment because the level of control would be the same even if title V applied. The commenter has not provided any information that exemption of these area source categories from title V will adversely affect public health, welfare or the environment.

I. Compliance with Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Comment: One commenter disagreed with EPA's conclusion that this Executive Order does not apply to this action because it is not economically significant and does not present a disproportionate risk to children. According to the commenter, nothing in the language of the Executive Order limits EPA's obligation to consider risks to instances when it thinks the underlying regulatory action is economically significant. The commenter also claimed that the toxic emissions from the source categories included in the proposal have a disproportionate risk on children, who are especially at risk to all toxins and inhaled pollution. The commenter alleged that EPA has ample reason to believe that failing to require the degree of reduction required by the CAA and its exemption of source categories from title V requirements will have a disproportionate effect on children.

Response: We disagree with the commenter. Section 2–202 of Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) defines the actions subject to its terms. As we stated at proposal, this Executive Order applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may disproportionately affect children. If a regulatory action meets both criteria, the Executive Order directs EPA to 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.

EPA interprets Executive Order 13045 as applying to those regulatory actions that concern health or safety risks, such that the analysis called for by section 5–501 of the Executive Order has the potential to influence the regulation. These final rules are not subject to Executive Order 13045 because they are not economically significant and, because the rules are based solely on technology performance, an analysis under section 5–501 of the Executive Order would not have had the potential to influence this regulation.

J. Compliance With Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Comment: One commenter alleged that minority and low income populations are located disproportionately near the source categories covered by the proposal. According to the commenter, these minority and low income populations will be adversely affected by any standard that is less protective than required by the CAA and also by any exemption from title V permitting requirements. The commenter claimed that EPA failed to consider these effects of its proposal.

Response: As we stated at proposal, we have determined that these final rules will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because they increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. The commenter provided no information to support the commenter's conclusion.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' because it may raise novel legal or policy issues. Accordingly, EPA submitted this action to OMB for review under Executive Order 12866, and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information requirements in these rules have been submitted for approval to OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* The information collection requirements are not enforceable until OMB approves them.

The recordkeeping and reporting requirements in the final rules are based on the existing permit requirements as well as the information collection requirements in the part 63 General Provisions (40 CFR part 63, subpart A). The recordkeeping and reporting requirements in the General Provisions are mandatory pursuant to section 114 of the CAA (42 U.S.C. 7414). All information submitted to EPA pursuant to the information collection requirements for which a claim of confidentiality is made is safeguarded according to CAA section 114(c) and the Agency's implementing regulations at 40 CFR part 2, subpart B.

The information collection requirements for acrylic and modacrylic fibers production are the same as the requirements that are in the current State operating permit for the one existing source. The only new information collection requirements that apply to this area source consist of initial notifications, records of process and maintenance wastewater treated in a wastewater treatment systems, and an SSM plan. Any new acrylic and modacrylic fibers production area source is subject to all information collection requirements in the part 63 General Provisions.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 9 labor hours per year at a cost of $780 for the one existing acrylic and modacrylic fibers area source. No capital/startup costs or operation and maintenance costs are associated with the final requirements. No costs or burden hours are estimated for new acrylic and modacrylic fibers production area sources because no new area sources are estimated during the next 3 years.

As a result of public comments, we learned there are no existing carbon black production facilities that are area sources. Consequently, there are no costs or burden hours associated with the monitoring, reporting and recordkeeping requirements for existing area sources. No costs or burden hours are estimated for new carbon black production area sources because no new sources are estimated during the next 3 years.

The testing, monitoring, recordkeeping, and reporting requirements for existing chromium compounds manufacturing area sources are the same as the requirements that are in the current title V operating permit for the two existing facilities. The only new information collection requirements that apply to these area sources consist of initial notifications, SSM plans, and control device inspections at one plant. Any new chromium compounds manufacturing area source is subject to all information collection requirements in the part 63 General Provisions.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 194 labor hours per year at a cost

of $16,409 for the two existing chromium compounds manufacturing area sources. No capital/startup costs or operation and maintenance costs are associated with the requirements. No costs or burden hours are estimated for new chromium compounds manufacturing area sources because no new area sources are estimated during the next 3 years.

The final NESHAP for flexible polyurethane foam production and fabrication operations area sources require a one-time notification by slab stock foam facilities certifying that they do not use methylene chloride and records documenting that they do not use methylene chloride. One plant that uses methylene chloride is subject to additional reporting requirements.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 925 labor hours per year at a cost of $78,337 for the 500 or more existing flexible foam fabrication and production area sources. No capital/startup costs or operation and maintenance costs are associated with the requirements. No costs or burden hours are estimated for new flexible foam production or fabrication area sources because no new sources are estimated during the next 3 years.

The testing and monitoring requirements for emissions sources equipped with a scrubbing system at new and existing lead acid battery manufacturing area sources are the same as the requirements that are in the NSPS (40 CFR part 60, subpart KK). Monitoring requirements for emissions sources equipped with fabric filter are also included in the final rule. New information collection requirements that apply to these area sources consist of notifications, records, and reports required by the part 63 General Provisions.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 2,302 labor hours per year at a cost of $172,477 for the approximately 60 existing lead acid battery manufacturing area sources, with capital/startup costs of $4,840 and no operation and maintenance costs. No costs or burden hours are estimated for new lead acid battery manufacturing area sources because no new sources are estimated during the next 3 years.

The final NESHAP for wood preserving area sources does not include testing or monitoring requirements because they are subject to management practices. The only new information collection requirements that apply to these existing area sources consist of initial notifications, records demonstrating compliance with the management practice requirements, and deviation reporting requirements.

The annual burden for this information collection averaged over the first 3 years of this ICR is estimated to total 1,055 labor hours per year at a cost of $89,324 for approximately 400 existing wood preserving area sources. No capital/startup costs or operation and maintenance costs are associated with the requirements. No costs or burden hours are estimated for new wood preserving area sources because no new sources are estimated during the next 3 years.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose, or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR part 63 are listed in 40 CFR part 9. When this ICR is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

For the purposes of assessing the impacts of the area source NESHAP on small entities, small entity is defined as: (1) A small business that meets the Small Business Administration size standards for small businesses found at 13 CFR 121.201 (less than 1,000 employees for acrylic and modacrylic fibers production and chromium compounds manufacturing and less than 500 employees for carbon black production, flexible polyurethane foam production and fabrication, lead-acid battery manufacturing, and wood preserving); (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of the proposed rules on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. There will not be adverse impacts on existing area sources in any of the seven source categories because the final rules do not create any new requirements or burdens for existing sources other than minimal notification requirements.

Although the final NESHAP contain emissions control requirements for new area sources in all seven source categories, we are not specifically aware of any new sources being constructed now or planned in the next 3 years, and consequently, we did not estimate any impacts for new sources.

Although this final rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities. These final rules are designed to harmonize with existing State or local requirements.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any 1 year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and

adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that the final rules do not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Thus, the final rules are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, the final rules do not significantly or uniquely affect small governments. The final rules contain no requirements that apply to such governments, impose no obligations upon them, and will not result in expenditures by them of $100 million or more in any one year or any disproportionate impacts on them. Therefore, the final rules are not subject to section 203 of the UMRA.

E. Executive Order 13132: Federalism

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

These final rules do not have federalism implications. They 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. These final rules impose requirements on owners and operators of specified area sources and not State and local governments. Thus, Executive Order 13132 does not apply to these final rules.

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

Executive Order 13175 (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.'' These final rules do not have tribal implications, as specified in Executive Order 13175. They will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. These final rules impose requirements on owners and operators of specified area sources and not tribal governments. Thus, Executive Order 13175 does not apply to these final rules.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, EPA must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. These final rules are not subject to Executive Order 13045 because they are not economically significant and because they are based on technology performance and not on health or safety risks.

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

These final rules are not a ''significant energy action'' as defined in Executive Order 13211 (66 FR 28355, May 22, 2001) because they are not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that these final rules are not likely to have any adverse energy effects because energy requirements would remain at existing levels. No additional pollution controls or other equipment that would consume energy are required by these final rules.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113, Section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS.

The final rules involve technical standards. The EPA cites the following standards: EPA Methods 1, 1A, 2, 2A, 2C, 2D, 2F, 2G, 3, 3A, 3B, 4, 5, 5D, 9 and 22 in 40 CFR part 60, appendix A. The method ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses,'' (incorporated by reference—see 40 CFR 63.14) is cited in one of these final rules for its manual method for measuring the oxygen, carbon dioxide, and carbon monoxide content of the exhaust gas. This part of ASME PTC 19.10–1981 is an acceptable alternative to EPA Method 3B. This ASTM method is a VCS.

Consistent with the NTTAA, EPA conducted searches to identify VCS in addition to these EPA methods. No applicable VCS were identified for EPA Methods 1A, 2A, 2D, 2F, 2G, 5D, 9 or 22. The search and review results are in the docket for these final rules.

The search for emissions measurement procedures identified 12 other VCS. The EPA determined that these 12 standards identified for measuring emissions of the HAP or surrogates subject to emissions standards in these final rules were impractical alternatives to EPA test

methods. Therefore, EPA does not intend to adopt these standards for this purpose. The reasons for the determinations for the 12 methods are discussed in a memorandum included in the docket for these final rules.

For the methods required or referenced by these final rules, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures under § 63.7(f) and § 63.8(f) of subpart A of the General Provisions.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that these final rules will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because they increase the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income population. These final rules establish national standards for each area source category.

K. Congressional Review Act

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 Congress and to the Comptroller General of the United States. The EPA will submit a report containing these final rules 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 rules 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). These final rules will be effective on July 16, 2007.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Incorporations by reference, Reporting and recordkeeping requirements.

Dated: June 15, 2007.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 63 of the Code of 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.*

Subpart A—[Amended]

■ 2. Section 63.14 is amended by revising paragraph (i)(1) to read as follows:

§ 63.14 Incorporations by reference.

* * * * *

(i) * * *

(1) ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses [Part 10, Instruments and Apparatus],'' IBR approved for §§ 63.309(k)(1)(iii), 63.865(b), 63.3166(a)(3), 63.3360(e)(1)(iii), 63.3545(a)(3), 63.3555(a)(3), 63.4166(a)(3), 63.4362(a)(3), 63.4766(a)(3), 63.4965(a)(3), 63.5160(d)(1)(iii), 63.9307(c)(2), 63.9323(a)(3), 63.11148(e)(3)(iii), 63.11155(e)(3), 63.11162(f)(3)(iii) and (f)(4), 63.11163(g)(1)(iii) and (g)(2), 63.11410(j)(1)(iii), and Table 5 of subpart DDDDD of this part.

* * * * *

■ 3. Part 63 is amended by adding subpart LLLLLL to read as follows:

Subpart LLLLLL—National Emission Standards for Hazardous Air Pollutants for Acrylic and Modacrylic Fibers Production Area Sources

Sec.

Applicability and Compliance Dates

63.11393 Am I subject to this subpart?
63.11394 What are my compliance dates?

Standards and Compliance Requirements

63.11395 What are the standards and compliance requirements for existing sources?
63.11396 What are the standards and compliance requirements for new sources?

Other Requirements and Information

63.11397 What General Provisions apply to this subpart?
63.11398 What definitions apply to this subpart?
63.11399 Who implements and enforces this subpart?
Table 1 to Subpart LLLLLL of Part 63—Applicability of General Provisions to Subpart LLLLLL

Applicability and Compliance Dates

§ 63.11393 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an acrylic or modacrylic fibers production plant that is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each acrylic or modacrylic fibers plant.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source on or before April 4, 2007.

(2) An affected source is new if you commenced construction or reconstruction of the affected source after April 4, 2007.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

§ 63.11394 What are my compliance dates?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions in this subpart no later than January 16, 2008.

(b) If you startup a new affected source on or before July 16, 2007, you must achieve compliance with the applicable provisions of this subpart not later than July 16, 2007.

(c) If you startup a new affected source after July 16, 2007, you must achieve compliance with the provisions in this subpart upon startup of your affected source.

Standards and Compliance Requirements

§ 63.11395 What are the standards and compliance requirements for existing sources?

(a) You must operate and maintain capture or enclosure systems that collect

the gases and fumes containing acrylonitrile (AN) released from polymerization process equipment and monomer recovery process equipment and convey the collected gas stream through a closed vent system to a control device.

(b) Except as provided in paragraph (b)(3) of this section, you must not discharge to the atmosphere through any combination of stacks or other vents captured gases containing AN in excess of the emissions limits in paragraphs (b)(1) and (2) of this section.

(1) 0.2 pounds of AN per hour (lb/hr) from the control device for polymerization process equipment.

(2) 0.05 lb/hr of AN from the control device for monomer recovery process equipment.

(3) If you do not comply with the emissions limits in paragraphs (b)(1) and (2) of this section, you must comply with the new source standards for process vents in § 63.11396(a).

(c) If you use a wet scrubber control device, you must comply with the control device parameter operating limits in paragraphs (c)(1) and (2) of this section.

(1) You must maintain the daily average water flow rate to a wet scrubber used to control polymerization process equipment at a minimum of 50 liters per minute (l/min). If the water flow to the wet scrubber ceases, the polymerization reactor(s) must be shut down.

(2) You must maintain the daily average water flow rate to a wet scrubber used to control monomer recovery process equipment at a minimum of 30 l/min.

(d) You must comply with the requirements of the New Source Performance Standard for Volatile Organic Liquids (40 CFR part 60, subpart Kb) for vessels that store acrylonitrile. The provisions in 40 CFR 60.114b do not apply to this subpart.

(e) You must operate continuous parameter monitoring systems (CPMS) to measure and record the water flow rate to a wet scrubber control device for the polymerization process equipment and the monomer recovery process equipment. The CPMS must record the water flow rate at least every 15 minutes and determine and record the daily average water flow rate.

(f) You must determine compliance with the daily average control device parameter operating limits for water flow rate in paragraph (c) of this section on a monthly basis and submit a summary report to EPA or the delegated authority on a quarterly basis. Should the daily average water flow rate to a wet scrubber control device for the polymerization process equipment fall below 50 l/min or the daily average water flow rate to a wet scrubber control device for the monomer recovery process equipment fall below 30 l/min, you must notify EPA or the delegated authority in writing within 10 days of the identification of the exceedance.

(g) You must keep records of each monthly compliance determination for the water flow rate operating parameter limits in a permanent form suitable for inspection and retain the records for at least 2 years following the date of each compliance determination.

(h) You must conduct a performance test for each control device for polymerization process equipment and monomer recovery process equipment subject to an emissions limit in paragraph (b) of this section within 180 days of your compliance date and report the results in your notification of compliance status. You must conduct each test according to the requirements in § 63.7 of subpart A and § 63.1104 of subpart YY. You are not required to conduct a performance test if a prior performance test was conducted using the methods specified in § 63.1104 of subpart YY and either no process changes have been made since the test, or you can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

(i) If you do not use a wet scrubber control device for the polymerization process equipment or the monomer recovery process equipment, you must submit a monitoring plan to EPA or the delegated authority for approval. Each plan must contain the information in paragraphs (i)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with § 63.1104 of subpart YY verifying the performance of the device for reducing AN to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer's instructions for routine and long-term maintenance) and continuous monitoring system.

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emissions limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

(j) If you do not operate a monomer recovery process that removes AN prior to spinning, you must comply with the requirements in paragraph (j)(1), (2), or (3) of this section for each fiber spinning line that uses a spin dope produced from either a suspension polymerization process or solution polymerization process.

(1) You must reduce the AN concentration of the spin dope to less than 100 parts per million by weight (ppmw); or

(2) You must design and operate a fiber spinning line enclosure according to the requirements in § 63.1103(b)(4) of subpart YY and reduce AN emissions by 85 weight-percent or more by venting emissions from the enclosure through a closed vent system to any combination of control devices meeting the requirements in § 63.982(a)(2) of subpart SS; or

(3) You must reduce AN emissions from the spinning line to less than or equal to 0.5 pounds of AN per ton (lb/ton) of acrylic and modacrylic fiber produced.

(k) You may change the operating limits for a wet scrubber if you meet the requirements in paragraphs (k)(1) through (3) of this section.

(1) Submit a written notification to the Administrator to conduct a new performance test to revise the operating limit.

(2) Conduct a performance test to demonstrate compliance with the applicable emissions limit for a control device in paragraph (b) of this section.

(3) Establish revised operating limits according to the procedures in paragraphs (k)(3)(i) and (ii) of this section.

(i) Using the CPMS required in paragraph (e) of this section, measure and record the water flow rate to the wet scrubber in intervals of no less than 15 minutes during each AN test run.

(ii) Determine and record the average water flow rate for each test run. Your operating limit is the lowest average flow rate during any test run that complies with the applicable emissions limit.

(l) You must treat process and maintenance wastewater containing AN in a wastewater treatment system. You must keep records that list each process and maintenance wastewater stream that contains AN and a process flow diagram of the wastewater treatment system that identifies each wastewater stream.

§ 63.11396 What are the standards and compliance requirements for new sources?

(a) You must comply with the requirements in paragraph (a)(1) or (2) of this section for each process vent where the AN concentration of the vent stream is equal to or greater than 50 parts per million by volume (ppmv) and

the average flow rate is equal to or greater than 0.005 cubic meters per minute, as determined by the applicability and assessment procedures in § 63.1104 of subpart YY.

(1) You must reduce emissions of AN by 98 weight-percent or limit the concentration of AN in the emissions to no more than 20 ppmv, whichever is less stringent, by venting emissions through a closed vent system to any combination of control devices meeting the requirements for process vents in § 63.982(a)(2) of subpart SS; or

(2) You must reduce emissions of AN by using a flare that meets the requirements of § 63.987 of subpart SS.

(b) You must comply with the requirements in paragraph (b)(1), (2), or (3) of this section for each fiber spinning line that uses a spin dope produced from either a suspension polymerization process or solution polymerization process.

(1) You must reduce the AN concentration of the spin dope to less than 100 ppmw; or

(2) You must design and operate a fiber spinning line enclosure according to the requirements in § 63.1103(b)(4) of subpart YY and reduce AN emissions by 85 weight-percent or more by venting emissions from the enclosure through a closed vent system to any combination of control devices meeting the requirements in § 63.982(a)(2) of subpart SS; or

(3) You must reduce AN emissions from the spinning line to less than or equal to 0.5 pounds of AN per ton (lb/ton) of acrylic and modacrylic fiber produced.

(c) You must comply with the requirements for storage vessels holding acrylonitrile as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY.

(d) You must comply with the requirements for equipment that contains or contacts 10 percent by weight or more of AN and operates 300 hours per year as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY.

(e) You must comply with the requirements for process wastewater and maintenance wastewater from an acrylic and modacrylic fibers production process as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY. Process wastewater and maintenance wastewater that contains AN and is not subject to the requirements in Table 2 to § 63.1103(b)(3)(i) of subpart YY must be treated in a wastewater treatment system.

(f) You must comply with all testing, monitoring, recordkeeping, and reporting requirements in subpart SS (for process vents); subpart SS or WW (for AN tanks); subpart TT or UU (for equipment leaks); and subpart G (for process wastewater and maintenance wastewater). Only the provisions in §§ 63.132 through 63.148 and §§ 63.151 through 63.153 of subpart G apply to this subpart.

(g) If you use a control device other than a wet scrubber, flare, incinerator, boiler, process heater, absorber, condenser, or carbon adsorber, you must prepare and submit a monitoring plan to the Administrator for approval. Each plan must contain the information in paragraphs (g)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with paragraph (f) of this section verifying the performance of the device for reducing AN to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer's instructions for routine and long-term maintenance) and continuous monitoring system.

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emissions limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

Other Requirements and Information

§ 63.11397 What General Provisions apply to this subpart?

(a) You must meet the requirements of the General Provisions in 40 CFR part 63, subpart A, as shown in Table 1 to this subpart.

(b) If you own or operate an existing affected source, your notification of compliance status required by § 63.9(h) must include the following information:

(1) This certification of compliance, signed by a responsible official, for the standards in § 63.11395(a): ''This facility complies with the management practices required in § 63.11395(a) for operation of capture systems for polymerization process equipment and monomer recovery process equipment.''

(2) This certification of compliance, signed by a responsible official, for the emissions limits in § 63.11395(b): ''This facility complies with the emissions limits in § 63.11395(b)(1) and (2) for control devices serving the polymerization process equipment and monomer recovery process equipment based on previous performance tests in accordance with § 63.11395(h)'' or ''This facility complies with the alternative standards for process vents in § 63.11395(b)(3) based on previous performance tests and assessments in accordance with § 63.11396(f)''. If you conduct a performance test or assessment to demonstrate compliance, you must include the results of the performance test and/or assessment.

(3) This certification of compliance, signed by a responsible official, for the standards for storage tanks in § 63.11396(d): ''This facility complies with the requirements of 40 CFR part 60, subpart Kb for each tank that stores acrylonitrile.''

(4) This certification of compliance, signed by a responsible official, for the requirement in Table 1 to subpart LLLLLL for preparation of a startup, shutdown, and malfunction plan: ''This facility has prepared a startup, shutdown, and malfunction plan in accordance with the requirements of 40 CFR 63.6(e)(3).''

(c) If you own or operate a new affected source, your notification of compliance status required by § 63.9(h) must include:

(1) The results of the initial performance test or compliance demonstration for each process vent (including closed vent system and control device, flare, or recovery device), fiber spinning line, AN storage tank, equipment, and wastewater stream subject to this subpart.

(2) This certification of compliance, signed by a responsible official, for the applicable emissions limit in § 63.11396(a) for process vents: ''This facility complies with the emissions limits in § 63.11396(a) for each process vent subject to control.''

(3) This certification of compliance, signed by a responsible official, for the applicable emissions limit in § 63.11396(b) for each fiber spinning line: ''This facility complies with the emissions limit and/or management practice requirements in § 63.11396(b)(1), (2), or (3) for each fiber spinning line.''

(4) This certification of compliance, signed by a responsible official, for the storage tank requirements in § 63.11396(c): ''This facility complies with the requirements for storage vessels holding acrylonitrile as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY.''

(5) This certification of compliance, signed by a responsible official, for the equipment leak requirements in § 63.11396(d): ''This facility complies with the requirements for all equipment that contains or contacts 10 percent by weight or more of AN and operates 300 hours per year or more as shown in Table 2 to § 63.1103(b)(3)(i) of subpart YY.''

(6) This certification of compliance, signed by a responsible official, for the process wastewater and maintenance wastewater requirements in § 63.11396(e): ''This facility complies with the requirements in Table 2 to § 63.1103(b)(3)(i) of subpart YY for each process wastewater stream and each maintenance wastewater stream.''

(d) If you own or operate a new affected source, you must report any deviation from the requirements of this subpart in the semiannual report required by 40 CFR 63.10(e)(3).

§ 63.11398 What definitions apply to this subpart?

Acrylic fiber means a manufactured synthetic fiber in which the fiber-forming substance is any long-chain synthetic polymer composed of at least 85 percent by weight of acrylonitrile units.

Acrylic and modacrylic fibers production means the production of either of the following synthetic fibers composed of acrylonitrile units: acrylic fiber or modacrylic fiber.

Acrylonitrile solution polymerization means a process where acrylonitrile and comonomers are dissolved in a solvent to form a polymer solution (typically polyacrylonitrile). The polyacrylonitrile is soluble in the solvent. In contrast to suspension polymerization, the resulting reactor polymer solution (spin dope) is filtered and pumped directly to the fiber spinning process.

Acrylonitrile suspension polymerization means a polymerization process where small drops of acrylonitrile and comonomers are suspended in water in the presence of a catalyst where they polymerize under agitation. Solid beads of polymer are formed in this suspension reaction which are subsequently filtered, washed, refiltered, and dried. The beads must be subsequently redissolved in a solvent to create a spin dope prior to introduction to the fiber spinning process.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation or management practice;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation or management practice in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Equipment means each of the following that is subject to this subpart: pump, compressor, agitator, pressure relief device, sampling collection system, open-ended valve or line, valve connector, instrumentation system in organic HAP service which contains or contacts greater than 10 percent by weight of acrylonitrile and operates more than 300 hours per year.

Fiber spinning line means the group of equipment and process vents associated with acrylic or modacrylic fiber spinning operations. The fiber spinning line includes (as applicable to the type of spinning process used) the blending and dissolving tanks, spinning solution filters, wet spinning units, spin bath tanks, and the equipment used downstream of the spin bath to wash, dry, or draw the spun fiber.

Maintenance wastewater means wastewater generated by the draining of process fluid from components in the process unit, whose primary product is a product produced by a source category subject to this subpart, into an individual drain system prior to or during maintenance activities. Maintenance wastewater can be generated during planned and unplanned shutdowns and during periods not associated with a shutdown. Examples of activities that can generate maintenance wastewaters include descaling of heat exchanger tubing bundles, cleaning of distillation column traps, draining of low legs and high point bleeds, draining of pumps into an individual drain system, and draining of portions of the process unit, whose primary product is a product produced by a source category subject to this subpart, for repair.

Modacrylic fiber means a manufactured synthetic fiber in which the fiber-forming substance is any long-chain synthetic polymer composed of at least 35 percent by weight of acrylonitrile units but less than 85 percent by weight of acrylonitrile units.

Monomer recovery process equipment means the collection of process units and associated process equipment used to reclaim the monomer for subsequent reuse, including but not limited to polymer holding tanks, polymer buffer tanks, monomer vacuum pump flush drum, and drum filter vacuum pump flush drum.

Polymerization process equipment means the collection of process units and associated process equipment used in the acrylonitrile polymerization process prior to the fiber spinning line, including but not limited to acrylonitrile storage tanks, recovered monomer tanks, monomer measuring tanks, monomer preparation tanks, monomer feed tanks, slurry receiver tanks, polymerization reactors, and drum filters.

Process vent means the point of discharge to the atmosphere (or point of entry into a control device, if any) of a gas stream from the acrylic and modacrylic fibers production process.

Process wastewater means wastewater, which during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Responsible official means responsible official as defined at 40 CFR 70.2.

Spin dope means the liquid mixture of polymer and solvent that is fed to the spinneret to form the acrylic and modacrylic fibers.

§ 63.11399 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency within your State.

(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 approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to a test method under § 63.7(e)(2)(ii) and (f). A ''major change to test method'' is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A ''major change to monitoring'' is defined in § 63.90.

(4) Approval of a major change to recordkeeping/ reporting under § 63.10(f). A ''major change to recordkeeping/reporting'' is defined in § 63.90.

As required in § 63.11397(a), you must comply with the requirements of the NESHAP General Provisions (40

CFR part 63, subpart A) as shown in the following table.

TABLE 1.—TO SUBPART LLLLLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLLL

Citation	Subject	Applies to subpart LLLLLL?	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12) (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability	Yes.	
63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved	No.	
63.2	Definitions	Yes.	
63.3	Units and Abbreviations	Yes.	
63.4	Prohibited Activities and Circumvention.	Yes.	
63.5	Preconstruction Review and Notification Requirements.	No.	
63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (e)(3)(i), (e)(3)(iii)–(e)(3)(ix), (f) (g), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes	Subpart LLLLLL requires new and existing sources to comply with requirements for startups, shutdowns, and malfunctions in § 63.6(e)(3).
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved	No.	
63.6(h)(1)–(h)(4), (h)(5)(i)–(h)(5)(iii), (h)(6)–(h)(9).		No	Subpart LLLLLL does not include opacity or visible emissions standards or require a continuous opacity monitoring system.
63.7(a), (e), (f), (g), (h)	Performance Testing Requirements.	Yes/No	Subpart LLLLLL requires performance tests for new and existing sources; a test for an existing source is not required if a prior test meets the conditions in § 63.11395(h).
63.7(b), (c)		Yes/No	Requirements for notification of performance test and for quality assurance program apply to new sources but not existing sources.
63.8(a)(1), (a)(2), (b), (c)(1)–(c)(3), (f)(1)–(5).	Monitoring Requirements	Yes.	
63.8(a)(3)	Reserved	No.	
63.8(a)(4)		Yes	Requirements apply to new sources if flares are the selected control option.
63.8(c)(4)–(c)(8), (d), (e), (f)(6), (g)		Yes	Requirements apply to new sources but not to existing sources.
63.9(a), (b)(1), (b)(5), (c), (d), (i), (j).	Notification Requirements	Yes.	
63.9(e)		Yes/No	Notification of performance test is required for new area sources.
63.9(b)(2)		Yes	Initial notification of applicability is required for new and existing area sources.
63.9(b)(3), (h)(4)	Reserved	No.	
63.9(b)(4), (h)(5)		No.	
63.9(f), (g)		No	Subpart LLLLLL does not require a continuous opacity monitoring system or continuous emissions monitoring system.
63.9(h)(1)–(h)(3), (h)(6)		Yes	Notification of compliance status is required for new and existing area sources.
63.10(a)	Recordkeeping Requirements	Yes.	
63.10(b)(1)		Yes/No	Record retention requirement applies to new area sources but not existing area sources. Subpart LLLLLL establishes 2-year retention period for existing area sources.
63.10(b)(2)		Yes	Recordkeeping requirements for startups, shutdowns, and malfunctions apply to new and existing area sources.
63.10(b)(3)		Yes	Recordkeeping requirements for applicability determinations apply to new area sources.
63.10(c)(1), (c)(5)–(c)(14)		Yes/No	Recordkeeping requirements for continuous parameter monitoring systems apply to new sources but not existing sources.
63.10(c)(2)–(c)(4), (c)(9)	Reserved	No.	
63.10(d)(1), (d)(4), (e)(1), (e)(2), (f)	Reporting Requirements	Yes.	
63.10(d)(2)		Yes	Report of performance test results applies to each area source required to conduct a performance test.
63.10(d)(3)		No	Subpart LLLLLL does not include opacity or visible emissions limits.

TABLE 1.—TO SUBPART LLLLLL OF PART 63—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART LLLLLL—Continued

Citation	Subject	Applies to subpart LLLLLL?	Explanation
63.10(d)(5)		Yes	Requirements for startup, shutdown, and malfunction reports apply to new and existing area sources.
(e)(1)–(e)(2), (e)(4)		No	Subpart LLLLLL does not require a continuous emissions monitoring system or continuous opacity monitoring system.
63.10(e)(3)		Yes/No	Semiannual reporting requirements for excess emissions and parameter monitoring exceedances apply to new area sources but not existing area sources.
63.11	Control Device Requirements	Yes	Requirements apply to new sources if flares are the selected control option.
63.12	State Authorities and Delegations	Yes.	
63.13	Addresses	Yes.	
63.14	Incorporations by Reference	Yes.	
63.15	Availability of Information and Confidentiality.	Yes.	
63.16	Performance Track Provisions.	Yes.	

■ 4. Part 63 is amended by adding subpart MMMMMM to read as follows:

Subpart MMMMMM—National Emission Standards for Hazardous Air Pollutants for Carbon Black Production Area Sources

Sec.

Applicability and Compliance Dates

63.11400 Am I subject to this subpart?
63.11401 What are my compliance dates?

Standards and Compliance Requirements

63.11402 What are the standards and compliance requirements for new and existing sources?
63.11403 [Reserved]

Other Requirements and Information

63.11404 What General Provisions apply to this subpart?
63.11405 What definitions apply to this subpart?
63.11406 Who implements and enforces this subpart?

Applicability and Compliance Dates

§ 63.11400 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a carbon black production facility that is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each carbon black production process unit. The affected source includes all waste management units, maintenance wastewater, and equipment components that contain or contact HAP that are associated with the carbon black production process unit.

(1) An affected source is an existing source if you commenced construction or reconstruction of the affected source on or before April 4, 2007.

(2) An affected source is new if you commenced construction or reconstruction of the affected source after April 4, 2007.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) If you own or operate an area source subject to this subpart, you must obtain a permit under 40 CFR part 70 or 40 CFR part 71.

§ 63.11401 What are my compliance dates?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions of this subpart by July 16, 2007.

(b) If you startup a new affected source on or before July 16, 2007, you must achieve compliance with the applicable provisions of this subpart not later than July 16, 2007.

(c) If you startup a new affected source after July 16, 2007, you must achieve compliance with the applicable provisions of this subpart upon startup of your affected source.

Standards and Compliance Requirements

§ 63.11402 What are the standards and compliance requirements for new and existing sources?

You must meet all the requirements in § 63.1103(f) of subpart YY.

§ 63.11403 [Reserved]

Other Requirements and Information

§ 63.11404 What General Provisions apply to this subpart?

The provisions in 40 CFR part 63, subpart A, applicable to this subpart are §§ 63.1 through 63.5 and §§ 63.11 through 63.16.

§ 63.11405 What definitions apply to this subpart?

The terms used in this subpart are defined in §§ 63.1101 and 63.1103(f)(2).

§ 63.11406 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency within your State.

(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 approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.992(b)(1).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A ''major change to test method'' is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A ''major change to monitoring'' is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A ''major change to recordkeeping/reporting'' is defined in § 63.90.

■ 5. Part 63 is amended by adding subpart NNNNNN to read as follows:

Subpart NNNNNN—National Emission Standards for Hazardous Air Pollutants for Chemical Manufacturing Area Sources: Chromium Compounds

Sec.

Applicability and Compliance Dates

63.11407 Am I subject to this subpart?
63.11408 What are my compliance dates?

Standards and Compliance Requirements

63.11409 What are the standards?
63.11410 What are the compliance requirements?

Other Requirements and Information

63.11411 What General Provisions apply to this subpart?
63.11412 What definitions apply to this subpart?
63.11413 Who implements and enforces this subpart?
Table 1 to Subpart NNNNNN of Part 63—HAP Emissions Units
Table 2 to Subpart NNNNNN of Part 63—Applicability of General Provisions to Subpart NNNNNN

Applicability and Compliance Dates

§ 63.11407 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a chromium compounds manufacturing facility that is an area source of hazardous air pollutant (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each chromium compounds manufacturing facility.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source on or before April 4, 2007.

(2) An affected source is new if you commence construction or reconstruction of the affected source after April 4, 2007.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the CAA.

(d) If you own or operate an area source subject to this subpart, you must obtain a permit under 40 CFR part 70 or 40 CFR part 71.

§ 63.11408 What are my compliance dates?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions in this subpart not later than January 16, 2008.

(b) If you startup a new affected source on or before July 16, 2007, you must achieve compliance with the applicable provisions of this subpart not later than July 16, 2007.

(c) If you startup a new affected source after July 16, 2007, you must achieve compliance with the applicable provisions of this subpart upon startup of your affected source.

Standards and Compliance Requirements

§ 63.11409 What are the standards?

(a) You must operate a capture system that collects the gases and fumes released during the operation of each emissions source listed in Table 1 of this subpart and conveys the collected gas stream to a particulate matter (PM) control device.

(b) You must not discharge to the atmosphere through any combination of stacks or other vents process gases from an emissions source listed in Table 1 of this subpart that contain PM in excess of the allowable process rate determined according to Equation 1 of this section (for an emissions source with a process rate of less than 30 tons per hour) or Equation 2 of this section (for an emissions source with a process rate of 30 tons per hour or greater). If more than one process vents to a common stack, the applicable emissions limit for the stack is the sum of allowable emissions calculated for each process using Equation 1 or 2 of this section, as applicable.

$$E = 4.1 \times P^{0.67} \qquad \text{(Eq. 1)}$$

Where:

E = Emissions limit in pounds per hour (lb/hr); and

P = Process rate of emissions source in tons per hour (ton/hr).

$$E = 55 \times P^{0.11} - 40 \qquad \text{(Eq. 2)}$$

§ 63.11410 What are the compliance requirements?

(a) *Existing sources.* If you own or operate an existing area source, you must comply with the requirements in paragraphs (b) through (e) of this section.

(b) *Initial control device inspection.* You must conduct an initial inspection of each PM control device according to the requirements in paragraphs (b)(1) through (4) of this section. You must conduct each inspection no later than 60 days after your applicable compliance date for each installed control device which has been operated within 60 days of the compliance date. For an installed control device which has not been operated within 60 days of the compliance date, you must conduct an initial inspection prior to startup of the control device.

(1) For each baghouse, you must visually inspect the system ductwork and baghouse unit for leaks. You must also inspect the inside of each baghouse for structural integrity and fabric filter condition. You must record the results of the inspection and any maintenance action in the logbook required in paragraph (d) of this section. An initial inspection of the internal components of a baghouse is not required if an inspection has been performed within the past 12 months.

(2) For each dry electrostatic precipitator, you must verify the proper functioning of the electronic controls for corona power and rapper operation, that the corona wires are energized, and that adequate air pressure is present on the rapper manifold. You must also visually inspect the system ductwork and electrostatic precipitator housing unit and hopper for leaks and inspect the interior of the electrostatic precipitator to determine the condition and integrity of corona wires, collection plates, hopper, and air diffuser plates. An initial inspection of the internal components of a dry electrostatic precipitator is not required if an inspection has been performed within the past 24 months.

(3) For each wet electrostatic precipitator, you must verify the proper functioning of the electronic controls for corona power, that the corona wires are energized, and that water flow is present. You must also visually inspect the system ductwork and electrostatic precipitator housing unit and hopper for leaks and inspect the interior of the electrostatic precipitator to determine the condition and integrity of corona wires, collection plates, plate wash spray heads, hopper, and air diffuser plates. An initial inspection of the internal components of a wet electrostatic precipitator is not required if an inspection has been performed within the past 24 months.

(4) For each wet scrubber, you must verify the presence of water flow to the scrubber. You must also visually inspect the system ductwork and scrubber unit for leaks and inspect the interior of the scrubber for structural integrity and the condition of the demister and spray nozzle.

(i) An initial inspection of the internal components of a wet scrubber is not required if an inspection has been performed within the past 12 months.

(i) An initial inspection of the internal components of a wet scrubber is not required if an inspection has been performed within the past 12 months.

(ii) The requirement in paragraph (b)(4) of this section for initial inspection of the internal components of a wet scrubber does not apply to a cyclonic scrubber installed upstream of a wet or dry electrostatic precipitator.

(c) *Periodic inspections/maintenance.* Following the initial inspections, you must perform periodic inspections and maintenance of each PM control device according to the requirements in paragraphs (c)(1) through (4) of this section.

(1) You must inspect and maintain each baghouse according to the requirements in paragraphs (c)(1)(i) and (ii) of this section.

(i) You must conduct monthly visual inspections of the system ductwork for leaks.

(ii) You must conduct inspections of the interior of the baghouse for structural integrity and to determine the condition of the fabric filter every 12 months. If an initial inspection is not required by paragraph (b)(1) of this section, the first inspection must not be more than 12 months from the last inspection.

(2) You must inspect and maintain each dry electrostatic precipitator according to the requirements in paragraphs (c)(2)(i) through (iii) of this section.

(i) You must conduct a daily inspection to verify the proper functioning of the electronic controls for corona power and rapper operation, that the corona wires are energized, and that adequate air pressure is present on the rapper manifold.

(ii) You must conduct monthly visual inspections of the system ductwork, housing unit, and hopper for leaks.

(iii) You must conduct inspections of the interior of the electrostatic precipitator to determine the condition and integrity of corona wires, collection plates, plate rappers, hopper, and air diffuser plates every 24 months.

(3) You must inspect and maintain each wet electrostatic precipitator according to the requirements in paragraphs (c)(3)(i) through (iii) of this section.

(i) You must conduct a daily inspection to verify the proper functioning of the electronic controls for corona power, that the corona wires are energized, and that water flow is present.

(ii) You must conduct monthly visual inspections of the system ductwork, electrostatic precipitator housing unit, and hopper for leaks.

(iii) You must conduct inspections of the interior of the electrostatic precipitator to determine the condition and integrity of corona wires, collection plates, plate rappers, hopper, and air diffuser plates every 24 months. If an initial inspection is not required by paragraph (b)(2) of this section, the first inspection must not be more than 24 months from the last inspection.

(4) You must inspect and maintain each wet scrubber according to the requirements in paragraphs (c)(4)(i) through (iii) of this section.

(i) You must conduct a daily inspection to verify the presence of water flow to the scrubber.

(ii) You must conduct monthly visual inspections of the system ductwork and scrubber unit for leaks.

(iii) You must conduct inspections of the interior of the scrubber to determine the structural integrity and condition of the demister and spray nozzle every 12 months. Internal inspections of cyclonic scrubbers installed upstream of wet or dry electrostatic precipitators are not required.

(d) *Recordkeeping requirements.* You must record the results of each inspection and maintenance action in a logbook (written or electronic format). You must keep the logbook onsite and make the logbook available to the permitting authority upon request. You must keep records of the information specified in paragraphs (d)(1) through (4) of this section for 5 years following the date of each recorded action.

(1) The date and time of each recorded action for a fabric filter, the results of each inspection, and the results of any maintenance performed on the bag filters.

(2) The date and time of each recorded action for a wet or dry electrostatic precipitator (including ductwork), the results of each inspection, and the results of any maintenance performed on the electrostatic precipitator.

(3) The date and time of each recorded action for a wet scrubber (including ductwork), the results of each inspection, and the results of any maintenance performed on the wet scrubber.

(4) Records of all required monitoring data and supporting information including all calibration and maintenance records, original strip-chart recordings for continuous monitoring information, and copies of all reports required by this subpart. You must maintain records of required monitoring data in a form suitable and readily available for expeditious review. All records must be kept onsite and made available to EPA or the delegated authority for inspection upon request. You must maintain records of all required monitoring data and supporting information for at least 5 years from the date of the monitoring sample, measurement, report, or application.

(e) *Reports.* (1) You must report each deviation (an action or condition not in accordance with the requirements of this subpart, including upset conditions but excluding excess emissions) to the permitting agency on the next business day after becoming aware of the deviation. You must submit a written report within 2 business days which identifies the probable cause of the deviation and any corrective actions or preventative actions taken. All reports of deviations must be certified by a responsible official.

(2) You must submit semiannual reports of monitoring and recordkeeping activities to your permitting authority.

(3) You must submit the results of any maintenance performed on each PM control device within 30 days of a written request by the permitting authority.

(f) *New sources.* If you own or operate a new affected source, you must comply with the requirements in paragraphs (g) and (h) of this section.

(g) *Bag leak detection systems.* You must install, operate, and maintain a bag leak detection system on all baghouses used to comply with the PM emissions limit in § 63.11409 according to paragraph (g)(1) of this section; prepare and operate by a site-specific monitoring plan according to paragraph (g)(2) of this section; take corrective action according to paragraph (g)(3) of this section; and record information according to paragraph (g)(4) of this section.

(1) Each bag leak detection system must meet the specifications and requirements in paragraphs (g)(1)(i) through (viii) of this section.

(i) The bag leak detection system must be certified by the manufacturer to be capable of detecting PM emissions at concentrations of 0.00044 grains per actual cubic foot or less.

(ii) The bag leak detection system sensor must provide output of relative PM loadings. The owner or operator shall continuously record the output from the bag leak detection system using electronic or other means (e.g., using a strip chart recorder or a data logger).

(iii) The bag leak detection system must be equipped with an alarm system that will sound when the system detects an increase in relative particulate loading over the alarm set point established according to paragraph (g)(1)(iv) of this section, and the alarm

must be located such that it can be heard by the appropriate plant personnel.

(iv) In the initial adjustment of the bag leak detection system, you must establish, at a minimum, the baseline output by adjusting the sensitivity (range) and the averaging period of the device, the alarm set points, and the alarm delay time.

(v) Following initial adjustment, you shall not adjust the averaging period, alarm set point, or alarm delay time without approval from the Administrator or delegated authority except as provided in paragraph (g)(1)(vi) of this section.

(vi) Once per quarter, you may adjust the sensitivity of the bag leak detection system to account for seasonal effects, including temperature and humidity, according to the procedures identified in the site-specific monitoring plan required by paragraph (g)(2) of this section.

(vii) You must install the bag leak detection sensor downstream of the baghouse and upstream of any wet scrubber.

(viii) Where multiple detectors are required, the system's instrumentation and alarm may be shared among detectors.

(2) You must develop and submit to the Administrator or delegated authority for approval a site-specific monitoring plan for each bag leak detection system. You must operate and maintain the bag leak detection system according to an approved site-specific monitoring plan at all times. Each monitoring plan must describe the items in paragraphs (g)(2)(i) through (vi) of this section.

(i) Installation of the bag leak detection system;

(ii) Initial and periodic adjustment of the bag leak detection system, including how the alarm set-point will be established;

(iii) Operation of the bag leak detection system, including quality assurance procedures;

(iv) How the bag leak detection system will be maintained, including a routine maintenance schedule and spare parts inventory list;

(v) How the bag leak detection system output will be recorded and stored; and

(vi) Corrective action procedures as specified in paragraph (g)(3) of this section. In approving the site-specific monitoring plan, the Administrator or delegated authority may allow owners and operators more than 3 hours to alleviate a specific condition that causes an alarm if the owner or operator identifies in the monitoring plan this specific condition as one that could lead to an alarm, adequately explains why it is not feasible to alleviate this condition within 3 hours of the time the alarm occurs, and demonstrates that the requested time will ensure alleviation of this condition as expeditiously as practicable.

(3) For each bag leak detection system, you must initiate procedures to determine the cause of every alarm within 1 hour of the alarm. Except as provided in paragraph (g)(2)(vi) of this section, you must alleviate the cause of the alarm within 3 hours of the alarm by taking whatever corrective action(s) are necessary. Corrective actions may include, but are not limited to the following:

(i) Inspecting the baghouse for air leaks, torn or broken bags or filter media, or any other condition that may cause an increase in particulate emissions;

(ii) Sealing off defective bags or filter media;

(iii) Replacing defective bags or filter media or otherwise repairing the control device;

(iv) Sealing off a defective baghouse compartment;

(v) Cleaning the bag leak detection system probe or otherwise repairing the bag leak detection system; or

(vi) Shutting down the process producing the particulate emissions.

(4) You must maintain records of the information specified in paragraphs (g)(4)(i) through (iii) of this section for each bag leak detection system.

(i) Records of the bag leak detection system output;

(ii) Records of bag leak detection system adjustments, including the date and time of the adjustment, the initial bag leak detection system settings, and the final bag leak detection system settings; and

(iii) The date and time of all bag leak detection system alarms, the time that procedures to determine the cause of the alarm were initiated, the cause of the alarm, an explanation of the actions taken, the date and time the cause of the alarm was alleviated, and whether the alarm was alleviated within 3 hours of the alarm.

(h) *Other control devices.* If you use a control device other than a baghouse, you must prepare and submit a monitoring plan to EPA or the delegated authority for approval. You must operate and maintain the control device according to an approved site-specific monitoring plan at all times. Each plan must contain the information in paragraphs (h)(1) through (5) of this section.

(1) A description of the device;

(2) Test results collected in accordance with paragraph (i) of this section verifying the performance of the device for reducing PM to the levels required by this subpart;

(3) Operation and maintenance plan for the control device (including a preventative maintenance schedule consistent with the manufacturer's instructions for routine and long-term maintenance) and continuous monitoring system.

(4) A list of operating parameters that will be monitored to maintain continuous compliance with the applicable emissions limits; and

(5) Operating parameter limits based on monitoring data collected during the performance test.

(i) *Performance tests.* If you own or operate a new affected source, you must conduct a performance test for each emissions source subject to an emissions limit in § 63.11409(b) within 180 days of your compliance date and report the results in your notification of compliance status. If you own or operate an existing affected source, you are not required to conduct a performance test if a prior performance test was conducted within the past 5 years of the effective date using the same methods specified in paragraph (j) of this section and either no process changes have been made since the test, or if you can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

(j) *Test methods.* You must conduct each performance test according to the requirements in § 63.7 and paragraphs (j)(1) through (3) of this section.

(1) Determine the concentration of PM according to the following test methods in 40 CFR part 60, appendix A:

(i) Method 1 or 1A to select sampling port locations and the number of traverse points in each stack or duct. Sampling sites must be located at the outlet of the control device and prior to any releases to the atmosphere.

(ii) Method 2, 2A, 2C, 2D, 2F, or 2G to determine the volumetric flow rate of the stack gas.

(iii) Method 3, 3A, or 3B to determine the dry molecular weight of the stack gas. You may use ANSI/ASME PTC 19.10–1981, ''Flue and Exhaust Gas Analyses (incorporated by reference—see § 63.14) as an alternative to EPA Method 3B.

(iv) Method 4 to determine the moisture content of the stack gas.

(v) Method 5 or 5D to determine the concentration of particulate matter (front half filterable catch only). Three valid test runs are needed to comprise a performance test.

(2) During the test, you must operate each emissions source within ±10

and record the process rate during the test.

(3) Compute the mass emissions (E) in pounds per hour (lb/hr) for each test run using Equation 1 of this section and the process rate measured during the test. The PM emissions in lb/hr must be less than the allowable PM emissions rate for the emissions source.

$$E = \frac{C \times Q}{K} \qquad \text{(Eq. 1)}$$

Where:

E = Mass emissions of PM, pounds per hour (lb/hr);
C = Concentration of PM, grains per dry standard cubic foot (gr/dscf);
Q = Volumetric flow rate of stack gas, dry standard cubic foot per hour (dscf/hr); and
K = Conversion factor, 7,000 grains per pound (gr/lb).

(k) *Startups, shutdown, and malfunctions.* The requirements in paragraphs (k)(1) and (2) of this section apply to the owner or operator of a new or existing affected source.

(1) Except as provided in paragraph (k)(2) of this section, you must report emissions in excess of a PM emissions limit established by this subpart lasting for more than 4 hours that result from a malfunction, a breakdown of process or control equipment, or any other abnormal condition by 9 a.m. of the next business day of becoming aware of the occurrence. You must provide the name and location of the facility, the nature and cause of the malfunction or breakdown, the time when the malfunction or breakdown is first observed, the expected duration, and the estimated rate of emissions. You must also notify EPA or the delegated authority immediately when corrected measures have been accomplished and, if requested, submit a written report within 15 days after the request.

(2) As an alternative to the requirements in paragraph (k)(1) of this section, you must comply with the startup, shutdown, and malfunction requirements in § 63.6(e)(3).

Other Requirements and Information

§ 63.11411 What General Provisions apply to this subpart?

(a) You must comply with the requirements of the General Provisions in 40 CFR part 63, subpart A as specified in Table 2 to this subpart.

(b) Your notification of compliance status required by § 63.9(h) must include the following information for a new or existing affected source:

(1) This certification of compliance, signed by a responsible official, for the standards in § 63.11409(a): ''This facility complies with the management practice requirements in § 63.11409(a) for installation and operation of capture systems for each emissions source subject to an emissions limit in § 63.11409(b).''

(2) This certification of compliance by the owner or operator of an existing source (if applicable), signed by a responsible official, for the emissions limits in § 63.11409(b): ''This facility complies with the emissions limits in § 63.11409(b) based on a previous performance test in accordance with § 63.11410(i).''

(3) The process rate for each emissions source subject to an emissions limit in § 63.11409(b) that represents normal and representative production operations.

(4) The procedures used to measure and record the process rate for each emissions source subject to an emissions limit in § 63.11409(b).

(5) This certification of compliance by the owner or operator of an existing affected source, signed by a responsible official, for the control device inspection and maintenance requirements in § 63.11410(b) through (d): ''This facility has conducted an initial inspection of each control device according to the requirements in § 63.11410(b), will conduct periodic inspections and maintenance of control devices in accordance with § 63.11410(c), and will maintain records of each inspection and maintenance action in the logbook required by § 63.11410(d).''

(6) This certification of compliance by the owner or operator of a new affected source, signed by a responsible official, for the bag leak detection system monitoring plan requirement in § 63.11410(g)(2): ''This facility has an approved bag leak detection system monitoring plan in accordance with § 63.11410(g)(2).''

(7) Performance test results for each emissions unit at a new affected source (or each emissions source at an existing affected source if a test is required) in accordance with § 63.11410(j). The performance test results for a new affected source must identify the daily average parameter operating limit for each PM control device.

(8) If applicable, this certification of compliance by the owner or operator of a new or existing source, signed by a responsible official, for the requirement in paragraph (k)(2) of this section to comply with the startup, shutdown, and malfunction provisions in 40 CFR 63.6(e)(3): ''This facility has prepared a startup, shutdown, and malfunction plan in accordance with 40 CFR 63.6(e)(3)''.

§ 63.11412 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:

Bag leak detection system means a system that is capable of continuously monitoring relative particulate matter (dust loadings) in the exhaust of a baghouse to detect bag leaks and other upset conditions. A bag leak detection system includes, but is not limited to, an instrument that operates on triboelectric, light scattering, light transmittance, or other effect to continuously monitor relative particulate matter loadings.

Chromic acid means chromium trioxide (CrO_3). It is produced by the electrolytic reaction or acidification of sodium dichromate.

Chromium compounds manufacturing means any process that uses chromite ore as the basic feedstock to manufacture chromium compounds, primarily sodium dichromate, chromic acid, and chromic oxide.

Chromium compounds manufacturing facility means the collection of processes and equipment at a plant engaged in chromium compounds manufacturing.

Chromite ore means an oxide of chromium and iron ($FeCr_2O_4$) that is the primary feedstock for chromium compounds manufacturing.

Chromic oxide means Cr_2O_3. In the production of chromic oxide, ammonium sulfate and sodium dichromate that have been concentrated by evaporation are mixed and fed to a rotary roasting kiln to produce chromic oxide, sodium sulfate and nitrogen gas.

Roasting means a heating (oxidizing) process where ground chromite ore is mixed with alkaline material (such as soda ash, sodium bicarbonate, and sodium hydroxide) and fed to a rotary kiln where it is heated to about 2,000 °F, converting the majority of the chromium in the ore from trivalent to hexavalent chromium.

Sodium chromate means Na_2CrO_4. It is produced by roasting chromite ore in a rotary kiln.

Sodium dichromate means sodium bichromate or sodium bichromate dihydrate and is known technically as sodium dichromate dihydrate ($Na_2Cr_2O_7 \bullet 2H_2O$). It is produced by the electrolytic reaction or acidification of sodium chromate.

§ 63.11413 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA, or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA

Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to a 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 paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A ''major change to test method'' is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A ''major change to monitoring'' is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A ''major change to recordkeeping/reporting'' is defined in § 63.90.

As required in § 63.11409, you must install and operate capture systems and comply with the applicable emissions limit for each emissions source shown in the following table.

TABLE 1 TO SUBPART NNNNNN OF PART 63.—HAP EMISSIONS SOURCES

Process	Emissions sources
1. Sodium chromate production.	a. Ball mill used to grind chromite ore.
	b. Dryer used to dry chromite ore.
	c. Rotary kiln used to roast chromite ore to produce sodium chromate.
	d. Secondary rotary kiln used to recycle and refine residues containing chromium compounds.
	e. Residue dryer system.
	f. Quench tanks.
2. Sodium dichromate production.	a. Stack on the electrolytic cell system used to produce sodium dichromate.
	b. Sodium dichromate crystallization unit.
	c. Sodium dichromate drying unit.
3. Chromic acid production.	a. Electrolytic cell system used to produce chromic acid.
	b. Melter used to produce chromic acid.
	c. Chromic acid crystallization unit.
	d. Chromic acid dryer.
4. Chromic oxide production.	a. Primary rotary roasting kiln used to produce chromic oxide.
	b. Chromic oxide filter.
	c. Chromic oxide dryer.
	d. Chromic oxide grinding unit.
	e. Chromic oxide storage vessel.
	f. Secondary rotary roasting kiln.
	g. Quench tanks.
5. Chromium hydrate production.	a. Furnace used to produce chromium hydrate.
	b. Chromium hydrate grinding unit.

As required in § 63.11411(a), you must comply with the requirements of the General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 2 TO SUBPART NNNNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNNN

Citation	Subject	Applies	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12), (b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability	Yes.	
63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved	No.	
63.2	Definitions	Yes.	
63.3	Units and Abbreviations	Yes.	
63.4	Prohibited Activities and Circumvention.	Yes.	
63.5	Preconstruction Review and Notification Requirements.	No.	
63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (e)(3)(i), (e)(3)(iii)–(e)(3)(ix), (f), (g), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes	The startup, shutdown, and malfunction requirements in § 63.6(e)(3) apply at new and existing area sources that choose to comply with § 63.11410(k)(2) instead of the requirements in § 63.11410(k)(1).
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved	No.	
63.6(h)(1)–(h)(4), (h)(5)(i)–(h)(5)(iii), (h)(6)–(h)(9).		No	Subpart NNNNNN does not include opacity or visible emissions standards or require a continuous opacity monitoring system.
63.7(a), (e), (f), (g), (h)	Performance Testing Requirements.	Yes	Subpart NNNNNN requires a performance test for a new source; a test for an existing source is not required under the conditions specified in § 63.11410(i).
63.7(b), (c)		Yes/No	Requirements for notification of performance test and for quality assurance program apply to new area sources but not existing area sources.
63.8(a)(1), (a)(2), (b), (c)(1)–(c)(3), (f)(1)–(5).	Monitoring Requirements	Yes.	
63.8(a)(3)	Reserved	No.	
63.8(a)(4)		No	Subpart NNNNNN does not require flares.
63.8(c)(4)–(c)(8), (d), (e), (f)(6), (g)		No	Subpart NNNNNN establishes requirements for continuous parameter monitoring systems.

TABLE 2 TO SUBPART NNNNNN OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART NNNNNN—Continued

Citation	Subject	Applies	Explanation
63.9(a), (b)(1), (b)(5), (c), (d), (i), (j).	Notification Requirements	Yes.	
63.9(e)		Yes/No	Notification of performance test is required only for new area sources.
63.9(b)(2)		Yes.	
63.9(b)(3), (h)(4)	Reserved	No.	
63.9(b)(4), (h)(5)		No.	
63.9(f), (g)		No	Subpart NNNNNN does not include opacity or visible emissions standards or require a continuous opacity monitoring system or continuous emissions monitoring system.
63.9(h)(1)–(h)(3), (h)(6)		Yes.	
63.10(a), (b)(1), (b)(2)(xii), (b)(2)(xiv), (b)(3).	Recordkeeping Requirements	Yes.	
63.10(b)(2)(i)–(b)(2)(v)		Yes.	Recordkeeping requirements for startups, shutdowns, and malfunctions apply to new and existing area sources that choose to comply with § 63.11410(k)(2).
63.10(b)(2)(vi)–(b)(2)(ix), (c)(1), (c)(5)–(c)(14).		Yes/No	Requirements apply to continuous parameter monitoring systems at new area sources but not existing area sources.
63.10(b)(2)(vii)(A)–(B), (b)(2)(x), (b)(2)(xiii).		No.	
63.10(c)(2)–(c)(4), (c)(9)	Reserved	No.	
63.10(d)(1), (d)(4), (f)	Reporting Requirements	Yes.	
63.10(d)(2)		Yes	Report of performance test results applies to new area sources; the results of a previous test may be submitted for an existing area source under the conditions specified in § 63.11410(i).
63.10(d)(3)		No	Subpart NNNNNN does not include opacity or visible emissions limits.
63.10(d)(5)		Yes	Requirements for startup, shutdown, and malfunction reports apply to new and existing area sources that choose to comply with § 63.11410(k)(2).
63.10(e)(1)–(e)(2), (e)(4)		No	Subpart NNNNNN does not require a continuous emissions monitoring system or continuous opacity monitoring system.
63.10(e)(3)		Yes/No	Semiannual reporting requirements apply to new area sources but not existing area sources.
63.11	Control Device Requirements	No	Subpart NNNNNN does not require flares.
63.12	State Authorities and Delegations	Yes.	
63.13	Addresses	Yes.	
63.14	Incorporations by Reference	Yes.	
63.15	Availability of Information and Confidentiality.	Yes.	
63.16	Performance Track Provisions	Yes.	

■ 6. Part 63 is amended by adding subpart OOOOOO to read as follows:

Subpart OOOOOO—National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Production and Fabrication Area Sources

Sec.

Applicability and Compliance Dates

63.11414 Am I subject to this subpart?
63.11415 What are my compliance dates?

Standards and Compliance Requirements

63.11416 What are the standards for new and existing sources?
63.11417 What are the compliance requirements for new and existing sources?

Other Requirements and Information

63.11418 What General Provisions apply to this subpart?
63.11419 What definitions apply to this subpart?
63.11420 Who implements and enforces this subpart?
Table 1 to Subpart OOOOOO of Part 63—Applicability of General Provisions to Subpart OOOOOO

Applicability and Compliance Dates

§ 63.11414 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate an area source of hazardous air pollutant (HAP) emissions that meets the criteria in paragraph (a)(1) or (2) of this section.

(1) You own or operate a plant that produces flexible polyurethane foam or rebond foam as defined in § 63.1292 of subpart III.

(2) You own or operate a flexible polyurethane foam fabrication facility, as defined in § 63.11419.

(b) The provisions of this subpart apply to each new and existing affected source that meets the criteria listed in paragraphs (b)(1) through (4) of this section.

(1) A slabstock flexible polyurethane foam production affected source is the collection of all equipment and activities necessary to produce slabstock flexible polyurethane foam.

(2) A molded flexible polyurethane foam production affected source is the collection of all equipment and activities necessary to produce molded foam.

(3) A rebond foam production affected source is the collection of all equipment and activities necessary to produce rebond foam.

(4) A flexible polyurethane foam fabrication affected source is the collection of all equipment and activities at a flexible polyurethane foam fabrication facility where adhesives are used to bond foam to foam or other substrates. Equipment and activities at flexible polyurethane foam fabrication facilities which do not use adhesives to bond foam to foam or other substrates are not flexible polyurethane foam fabrication affected sources.

(c) An affected source is existing if you commenced construction or reconstruction of the affected source on or before April 4, 2007.

(d) An affected source is new if you commenced construction or reconstruction of the affected source after April 4, 2007.

(e) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(f) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

§ 63.11415 What are my compliance dates?

(a) If you own or operate an existing slabstock flexible polyurethane foam production affected source, you must achieve compliance with the applicable provisions in this subpart by July 16, 2008.

(b) If you own or operate an existing molded flexible polyurethane foam affected source, an existing rebond foam production affected sources, or an existing flexible polyurethane foam fabrication affected source, you must achieve compliance with the applicable provisions in this subpart by July 16, 2007.

(c) If you startup a new affected source on or before July 16, 2007, you must achieve compliance with the applicable provisions in this subpart not later than July 16, 2007.

(d) If you startup a new affected source after July 16, 2007, you must achieve compliance with the provisions in this subpart upon startup of your affected source.

Standards and Compliance Requirements

§ 63.11416 What are the standards for new and existing sources?

(a) If you own or operate a slabstock flexible polyurethane foam production affected source, you must meet the requirements in paragraph (b) of this section. If you own or operate a molded foam affected source, you must meet the requirements in paragraph (c) of this section. If you own or operate a rebond foam affected source, you must meet the requirements in paragraph (d) of this section. If you own or operate a flexible polyurethane foam fabrication affected source, you must meet the requirements in paragraph (e) of this section.

(b) If you own or operate a new or existing slabstock polyurethane foam production affected source, you must comply with the requirements in either paragraph (b)(1) or (2) of this section.

(1) Comply with § 63.1293(a) or (b) of subpart III, except that you must use Equation 1 of this section to determine the HAP auxiliary blowing agent (ABA) formulation limit for each foam grade instead of Equation 3 of § 63.1297 of subpart III.

You must use zero as the formulation limitation for any grade of foam where the result of the formulation equation (using Equation 1 of this section) is negative (*i.e.*, less than zero):

$$ABA_{limit} = -0.2\,(IFD) - 19.1\left(\frac{1}{IFD}\right) - 15.3\,(DEN) - 6.8\left(\frac{1}{DEN}\right) + 36.5 \qquad \text{(Equation 1)}$$

where:

ABA_{limit} = HAP ABA formulation limitation, parts methylene chloride ABA allowed per hundred parts polyol (pph).
IFD = Indentation force deflection, pounds.
DEN = Density, pounds per cubic foot.

(2) Use no material containing methylene chloride for any purpose in any slabstock flexible foam production process.

(c) If you own or operate a new or existing molded foam affected source, you must comply with the requirements in paragraphs (c)(1) and (2) of this section.

(1) You must not use a material containing methylene chloride as an equipment cleaner to flush the mixhead or use a material containing methylene chloride elsewhere as an equipment cleaner in a molded flexible polyurethane foam process.

(2) You must not use a mold release agent containing methylene chloride in a molded flexible polyurethane foam process.

(d) If you own or operate a new or existing rebond foam affected source, you must comply with the requirements in paragraphs (d)(1) and (2) of this section.

(1) You must not use a material containing methylene chloride as an equipment cleaner in a rebond foam process.

(2) You must not use a mold release agent containing methylene chloride in a rebond foam process.

(e) If you own or operate a new or existing flexible polyurethane foam fabrication affected source, you must not use any adhesive containing methylene chloride in a flexible polyurethane foam fabrication process.

(f) You may demonstrate compliance with the requirements in paragraphs (b)(2) and (c) through (e) of this section using adhesive usage records, Material Safety Data Sheets, and engineering calculations.

§ 63.11417 What are the compliance requirements for new and existing sources?

(a) If you own or operate a slabstock flexible polyurethane foam production affected source, you must comply with the requirements in paragraph (b) of this section. If you own or operate a molded foam affected source, rebond foam affected source, or a loop slitter at a flexible polyurethane foam fabrication affected source you must comply with the requirements in paragraphs (c) and (d) of this section.

(b) Each owner or operator of a new or existing slabstock flexible polyurethane foam production affected source who chooses to comply with § 63.11416(b)(1) must comply with paragraph (b)(1) of this section. Each owner or operator of a new or existing slabstock flexible polyurethane foam production affected source who chooses to comply with § 63.11416(b)(2) must comply with paragraphs (b)(2) and (3) of this section.

(1) You must comply with paragraphs (b)(1)(i) through (v) of this section.

(i) The monitoring requirements in § 63.1303 of subpart III.

(ii) The testing requirements in § 63.1304 or § 63.1305 of subpart III.

(iii) The reporting requirements in § 63.1306 of subpart III, with the exception of the reporting requirements in § 63.1306(d)(1), (2), (4), and (5) of subpart III.

(iv) The recordkeeping requirements in § 63.1307 of subpart III, with the exception of the recordkeeping requirements in § 63.1307(a)(1), (b)(1)(i), and (b)(2).

(v) The compliance demonstration requirements in § 63.1308(a), (c), and (d) of subpart III.

(2) You must submit a notification of compliance status report no later than 180 days after your compliance date. The report must contain the information detailed in § 63.9(h)(2)(i) paragraphs (A) and (G), and must contain this certification of compliance, signed by a responsible official, for the standards in § 63.11416(b)(2): ''This facility uses no material containing methylene chloride for any purpose on any slabstock flexible foam process.''

(3) You must maintain records of the information used to demonstrate compliance, as required in § 63.11416(f). You must maintain the records for 5 years, with the last 2 years of data retained on site. The remaining 3 years of data may be maintained off site.

(c) You must have a compliance certification on file by the compliance date. This certification must contain the statements in paragraph (c)(1), (2), or (3) of this section, as applicable, and must be signed by a responsible official.

(1) For a molded foam affected source:

(i) ''This facility does not use any equipment cleaner to flush the mixhead which contains methylene chloride, or any other equipment cleaner containing methylene chloride in a molded flexible polyurethane foam process in accordance with § 63.11416(c)(1).''

(ii) ''This facility does not use any mold release agent containing methylene chloride in a molded flexible polyurethane foam process in accordance with § 63.11416(c)(2).''

(2) For a rebond foam affected source:

(i) ''This facility does not use any equipment cleaner which contains methylene chloride in a rebond flexible polyurethane foam process in accordance with § 63.11416(d)(1).''

(ii) ''This facility does not use any mold release agent containing methylene chloride in a rebond flexible polyurethane foam process in accordance with § 63.11416(d)(2).''

(3) For a flexible polyurethane foam fabrication affected source containing a loop slitter: ''This facility does not use any adhesive containing methylene chloride on a loop slitter process in accordance with § 63.11416(e).''

(d) For molded foam affected sources, rebond foam affected sources, and flexible polyurethane foam fabrication affected sources containing a loop slitter, you must maintain records of the information used to demonstrate compliance, as required in § 63.11416(f). You must maintain the records for 5 years, with the last 2 years of data retained on site. The remaining 3 years of data may be maintained off site.

Other Requirements and Information

§ 63.11418 What General Provisions apply to this subpart?

The provisions in 40 CFR part 63, subpart A, applicable to sources subject to § 63.11416(b)(1) are specified in Table 1 of this subpart.

§ 63.11419 What definitions apply to this subpart?

The terms used in this subpart are defined in the CAA; § 63.1292 of subpart III; § 63.8830 of subpart MMMMM; § 63.2 of subpart A; and in this section as follows:

Flexible polyurethane foam fabrication facility means a facility where pieces of flexible polyurethane foam are cut, bonded, and/or laminated together or to other substrates.

§ 63.11420 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency within your State.

(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 approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A ''major change to test method'' is defined in § 63.90.

(3) Approval of a major change to monitoring under § 63.8(f). A ''major change to monitoring'' is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A ''major change to recordkeeping/reporting'' is defined in § 63.90.

As required in § 63.11418, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 1 TO SUBPART OOOOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOOOO

Subpart A reference	Applies to Subpart OOOOOO?	Comment
§ 63.1	Yes.	
§ 63.2	Yes	Definitions are modified and supplemented by § 63.11419.
§ 63.3	Yes.	
§ 63.4	Yes.	
§ 63.5	Yes.	
§ 63.6(a)–(d)	Yes.	
§ 63.6(e)(1)–(2)	Yes.	
§ 63.6(e)(3)	No	Owners and operators of subpart OOOOOO affected sources are not required to develop and implement a startup, shutdown, and malfunction plan.
§ 63.6 (f)–(g)	Yes.	
§ 63.6(h)	No	Subpart OOOOOO does not require opacity and visible emissions standards.
§ 63.6 (i)–(j)	Yes.	
§ 63.7	No	Performance tests not required by subpart OOOOOO.

TABLE 1 TO SUBPART OOOOOO OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART OOOOOO—Continued

Subpart A reference	Applies to Subpart OOOOOO?	Comment
§ 63.8	No	Continuous monitoring, as defined in subpart A, is not required by subpart OOOOOO.
§ 63.9(a)–(d)	Yes.	
§ 63.9(e)–(g)	No.	
§ 63.9(h)	No	Subpart OOOOOO specifies Notification of Compliance Status requirements.
§ 63.9 (i)–(j)	Yes.	
§ 63.10(a)–(b)	Yes	Except that the records specified in § 63.10(b)(2) are not required.
§ 63.10(c)	No.	
§ 63.10(d)(1)	Yes.	
§ 63.10(d)(2)–(3)	No.	
§ 63.10(d)(4)	Yes.	
§ 63.10(d)(5)	No.	
§ 63.10(e)	No.	
§ 63.10(f)	Yes.	
§ 63.11	No.	
§ 63.12	Yes.	
§ 63.13	Yes.	
§ 63.14	Yes.	
§ 63.15	Yes.	
§ 63.16	Yes.	

■ 7. Part 63 is amended by adding subpart PPPPPP to read as follows:

Subpart PPPPPP—National Emission Standards for Hazardous Air Pollutants for Lead Acid Battery Manufacturing Area Sources

Sec.

Applicability and Compliance Dates

63.11421 Am I subject to this subpart?
63.11422 What are my compliance dates?

Standards and Compliance Requirements

63.11423 What are the standards and compliance requirements for new and existing sources?
63.11424 [Reserved]

Other Requirements and Information

63.11425 What General Provisions apply to this subpart?
63.11426 What definitions apply to this subpart?
63.11427 Who implements and enforces this subpart?
Table 1 to Subpart PPPPPPP of Part 63—Applicability of General Provisions to Subpart PPPPPP

Applicability and Compliance Dates

§ 63.11421 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a lead acid battery manufacturing plant that is an area source of hazardous air pollutants (HAP) emissions.

(b) This subpart applies to each new or existing affected source. The affected source is each lead acid battery manufacturing plant. The affected source includes all grid casting facilities, paste mixing facilities, three-process operation facilities, lead oxide manufacturing facilities, lead reclamation facilities, and any other lead-emitting operation that is associated with the lead acid battery manufacturing plant.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source on or before April 4, 2007.

(2) An affected source is new if you commenced construction or reconstruction of the affected source after April 4, 2007.

(c) This subpart does not apply to research and development facilities, as defined in section 112(c)(7) of the Clean Air Act (CAA).

(d) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

§ 63.11422 What are my compliance dates?

(a) If you own or operate an existing affected source, you must achieve compliance with the applicable provisions in this subpart by no later than July 16, 2008.

(b) If you startup a new affected source on or before July 16, 2007, you must achieve compliance with the applicable provisions in this subpart not later than July 16, 2007.

(c) If you startup a new affected source after July 16, 2007, you must achieve compliance with the provisions in this subpart upon startup of your affected source.

Standards and Compliance Requirements

§ 63.11423 What are the standards and compliance requirements for new and existing sources?

(a) You must meet all the standards for lead in 40 CFR 60.372.

(b) You must meet the monitoring requirements in paragraphs (b)(1) and (2) of this section.

(1) For any emissions point controlled by a scrubbing system, you must meet the requirements in 40 CFR 60.373.

(2) For any emissions point controlled by a fabric filter, you must meet the requirements of paragraph (b)(2)(i) of this section and either paragraph (b)(2)(ii) or (iii) of this section. Fabric filters equipped with a high efficiency particulate air (HEPA) filter or other secondary filter are allowed to monitor less frequently, as specified in paragraph (b)(2)(iv) of this section.

(i) You must perform semiannual inspections and maintenance to ensure proper performance of each fabric filter. This includes inspection of structural and filter integrity. You must record the results of these inspections.

(ii) You must install, maintain, and operate a pressure drop monitoring device to measure the differential pressure drop across the fabric filter during all times when the process is operating. The pressure drop shall be recorded at least once per day. If a pressure drop is observed outside of the normal operational ranges, you must record the incident and take immediate

corrective actions. You must also record the corrective actions taken. You must submit a monitoring system performance report in accordance with § 63.10(e)(3).

(iii) You must conduct a visible emissions observation at least once per day to verify that no visible emissions are occurring at the discharge point to the atmosphere from any emissions source subject to the requirements of paragraph (a) of this section. If visible emissions are detected, you must record the incident and conduct an opacity measurement in accordance with 40 CFR 60.374(b)(3). You must record the results of each opacity measurement. If the measurement exceeds the applicable opacity standard in 40 CFR 60.372(a)(7) or (8), you must submit this information in an excess emissions report required under § 63.10(e)(3).

(iv) Fabric filters equipped with a HEPA filter or other secondary filter are allowed to monitor less frequently, as specified in paragraph (b)(2)(iv)(A) or (B) of this section.

(A) If you are using a pressure drop monitoring device to measure the differential pressure drop across the fabric filter in accordance with paragraph (b)(2)(ii) of this section, you must record the pressure drop at least once per week. If a pressure drop is observed outside of the normal operational ranges, you must record the incident and take immediate corrective actions. You must also record the corrective actions taken. You must submit a monitoring system performance report in accordance with § 63.10(e)(3).

(B) If you are conducting visible emissions observations in accordance with paragraph (b)(2)(iii) of this section, you must conduct such observations at least once per week and record the results in accordance with paragraph (b)(2)(iii) of this section. If visible emissions are detected, you must record the incident and conduct an opacity measurement in accordance with 40 CFR 60.374(b)(3). You must record the results of each opacity measurement. If the measurement exceeds the applicable opacity standard in 40 CFR 60.372(a)(7) or (8), you must submit this information in an excess emissions report required under § 63.10(e)(3).

(c) You must meet the testing requirements in 40 CFR 60.374.

(1) Existing sources are not required to conduct a performance test if a prior performance test was conducted using the same methods specified in 40 CFR 60.374 and either no process changes have been made since the test, or you can demonstrate that the results of the performance test, with or without adjustments, reliably demonstrate compliance despite process changes.

(2) Sources without a prior performance test, as described in paragraph (b) of this section, must conduct a performance test using the methods specified in 40 CFR 60.374 by 180 days after the compliance date.

§ 63.11424 [Reserved]

Other Requirements and Information

§ 63.11425 What General Provisions apply to this subpart?

(a) The provisions in 40 CFR part 63, subpart A, that are applicable to this subpart are specified in Table 1 to this subpart.

(b) For existing sources, the initial notification required by § 63.9(b) must be submitted not later than November 13, 2007.

(c) For existing sources, the notification of compliance required by § 63.9(h) must be submitted not later than September 15, 2008.

§ 63.11426 What definitions apply to this subpart?

The terms used in this subpart are defined in the CAA; 40 CFR 60.371; 40 CFR 60.2 for terms used in the applicable provisions of part 60, subpart A, as specified in § 63.11425(a); and § 63.2 for terms used in the applicable provisions of part 63, subpart A, as specified in § 63.11425(b).

§ 63.11427 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. EPA Regional Office to find out if this subpart is delegated to a State, local, or tribal agency within your State.

(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 approval authorities contained in paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under 40 CFR 63.7(e)(2)(ii) and (f). A ''major change to test method'' is defined in § 63.90.

(3) Approval of a major change to monitoring under 40 CFR 63.8(f). A ''major change to monitoring'' is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under 40 CFR 63.10(f). A ''major change to recordkeeping/reporting'' is defined in § 63.90.

As required in § 63.11425, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 1 TO SUBPART PPPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPPP

Citation	Subject	Applies to Subpart PPPPPP?	Explanation
63.1	Applicability	Yes.	
63.2	Definitions	Yes.	
63.3	Units and Abbreviations.		
63.4	Prohibited Activities and Circumvention.	Yes.	
63.5	Preconstruction Review and Notification Requirements.	No.	
63.6(a)–(d), (e)(1), (f)–(j)	Compliance with Standards and Maintenance Requirements.	Yes.	
63.6(e)(3)		No	Subpart PPPPPP does not require a startup, shutdown, and malfunction plan.
63.7	Performance Testing Requirements.	Yes.	
63.8	Monitoring Requirements	Yes.	

TABLE 1 TO SUBPART PPPPPP OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART PPPPPP—Continued

Citation	Subject	Applies to Subpart PPPPPP?	Explanation
63.9		Yes.	
63.10(a)–(c), (d)(1)–(4), (e), (f)	Recordkeeping and Reporting Requirements.	Yes.	
63.10(d)(5)		No	Subpart PPPPPP does not require a startup, shutdown, and malfunction plan.
63.11	Control Device Requirements	No	Subpart PPPPPP does not require flares.
63.12	State Authorities and Delegations.	Yes.	
63.13	Addresses	Yes.	
63.14	Incorporations by Reference	Yes.	
63.15	Availability of Information and Confidentiality.	Yes.	
63.16	Performance Track Provisions	Yes.	
63.1(a)(5), (a)(7)–(9), (b)(2), (c)(3), (d), 63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv), 63.8(a)(3), 63.9(b)(3), (h)(4), 63.10(c)(2)–(c)(4), (c)(9).	Reserved	No.	

■ 8. Part 63 is amended by adding subpart QQQQQQ to read as follows:

Subpart QQQQQQ—National Emission Standards for Hazardous Air Pollutants for Wood Preserving Area Sources

Sec.

Applicability and Compliance Dates

63.11428 Am I subject to this subpart?
63.11429 What are my compliance dates?

Standards

63.11430 What are the standards?
63.11431 [Reserved]

Other Requirements and Information

63.11432 What General Provisions apply to this subpart?
63.11433 What definitions apply to this subpart?
63.11434 Who implements and enforces this subpart?
Table 1 to Subpart QQQQQQ of Part 63—Applicability of General Provisions of Subpart QQQQQQ

Applicability and Compliance Dates

§ 63.11428 Am I subject to this subpart?

(a) You are subject to this subpart if you own or operate a wood preserving operation that is an area source of hazardous air pollutant (HAP) emissions.

(b) The affected source is each new or existing wood preserving operation.

(1) An affected source is existing if you commenced construction or reconstruction of the affected source on or before April 4, 2007.

(2) An affected source is new if you commenced construction or reconstruction of the affected source after April 4, 2007.

(c) You are exempt from the obligation to obtain a permit under 40 CFR part 70 or 40 CFR part 71, provided you are not otherwise required by law to obtain a permit under 40 CFR 70.3(a) or 40 CFR 71.3(a). Notwithstanding the previous sentence, you must continue to comply with the provisions of this subpart.

§ 63.11429 What are my compliance dates?

(a) If you have an existing affected source, you must achieve compliance with applicable provisions in this subpart by July 16, 2007.

(b) If you startup a new affected source on or before July 16, 2007, you must achieve compliance with applicable provisions in this subpart not later than July 16, 2007.

(c) If you startup a new affected source after July 16, 2007, you must achieve compliance with applicable provisions in this subpart upon initial startup.

Standards

§ 63.11430 What are the standards?

(a) If you use a pressure treatment process with any wood preservative containing chromium, arsenic, dioxins, or methylene chloride at a new or existing area source, the preservative must be applied to the wood product inside a retort or similarly enclosed vessel.

(b) If you use a thermal treatment process with any wood preservative containing chromium, arsenic, dioxins, or methylene chloride at a new or existing area source, the preservative must be applied using process treatment tanks equipped with an air scavenging system to control emissions.

(c) If you use any wood preservative containing chromium, arsenic, dioxins, or methylene chloride at a new or existing area source, you must prepare and operate according to a management practice plan to minimize air emissions from the preservative treatment of wood at a new or existing area source. You may use your standard operating procedures to meet the requirements for a management practice plan if it includes the minimum activities required for a management practice plan. The management practice plan must include, but is not limited to, the following activities:

(1) Minimize preservative usage;

(2) Maintain records on the type of treatment process and types and amounts of wood preservatives used at the facility;

(3) For the pressure treatment process, maintain charge records identifying pressure reading(s) inside the retorts (or similarly enclosed vessel);

(4) For the thermal treatment process, maintain records that the air scavenging system is in place and operated properly during the treatment process;

(5) Store treated wood product on drip pads or in a primary containment area to convey preservative drippage to a collection system until drippage has ceased;

(6) For the pressure treatment process, fully drain the retort to the extent practicable, prior to opening the retort door;

(7) Promptly collect any spills; and

(8) Perform relevant corrective actions or preventative measures in the event of a malfunction before resuming operations.

§ 63.11431 [Reserved]

Other Requirements and Information

§ 63.11432 What General Provisions apply to this subpart?

(a) If you own or operate a new or existing affected source that uses any wood preservative containing chromium, arsenic, dioxins, or methylene chloride, you must comply with the requirements of the General Provisions in 40 CFR part 63, subpart A, according to Table 1 to this subpart.

(b) If you own or operate a new or existing affected source that uses any wood preservative containing chromium, arsenic, dioxins, or methylene chloride, you must submit an initial notification of applicability required by § 63.9(a)(2) no later than 90 days after the applicable compliance date specified in § 63.11429. The initial notification may be combined with the notification of compliance status required in paragraph (c) of this section. The notification of applicability must include the following information:

(1) The name and address of the owner or operator;

(2) The address (*i.e.*, physical location) of the affected source; and

(3) An identification of the relevant standard, or other requirement, that is the basis of the notification and the source's compliance date.

(c) If you own or operate a new or existing affected source that uses any wood preservative containing chromium, arsenic, dioxins, or methylene chloride, you must submit a notification of compliance status required by § 63.9(h) no later than 90 days after the applicable compliance date specified in § 63.11429. Your notification of compliance status must include this certification of compliance, signed by a responsible official, for the standards in § 63.11430: ''This facility complies with the management practices to minimize air emissions from the preservative treatment of wood in accordance with § 63.11430.''

(d) You must report any deviation from the requirements of this subpart within 30 days of the deviation.

§ 63.11433 What definitions apply to this subpart?

Terms used in this subpart are defined in the Clean Air Act, § 63.2, and in this section as follows:

Air scavenging system means an air collection and control system that collects and removes vapors from a thermal treatment process vessel and vents the emissions to a vapor recovery tank that collects condensate from the vapors.

Chromated copper arsenate (CCA) means a chemical wood preservative consisting of mixtures of water-soluble chemicals containing metal oxides of chromium, copper, and arsenic. CCA is used in pressure treated wood to protect wood from rotting due to insects and microbial agents.

Deviation means any instance in which an affected source subject to this subpart, or an owner or operator of such a source:

(1) Fails to meet any requirement or obligation established by this subpart, including but not limited to any emissions limitation or management practice;

(2) Fails to meet any term or condition that is adopted to implement an applicable requirement in this subpart and that is included in the operating permit for any affected source required to obtain such a permit; or

(3) Fails to meet any emissions limitation or management practice in this subpart during startup, shutdown, or malfunction, regardless of whether or not such failure is permitted by this subpart.

Pressure treatment process means a wood treatment process involving an enclosed vessel, usually a retort, and the application of pneumatic or hydrostatic pressure to expedite the movement of preservative liquid into the wood.

Responsible official means responsible official as defined in 40 CFR 70.2.

Retort means an airtight pressure vessel, typically a long horizontal cylinder, used for the pressure impregnation of wood products with a liquid wood preservative.

Thermal treatment process means a non-pressurized wood treatment process where the wood is exposed to a heated preservative.

Wood preserving means the pressure or thermal impregnation of chemicals into wood to provide effective long-term resistance to attack by fungi, bacteria, insects, and marine borers.

§ 63.11434 Who implements and enforces this subpart?

(a) This subpart can be implemented and enforced by the U.S. EPA or a delegated authority such as a State, local, or tribal agency. If the U.S. EPA Administrator has delegated authority to a State, local, or tribal agency pursuant to 40 CFR subpart E, then that Agency has the authority to implement and enforce this subpart. You should contact your U.S. 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 paragraphs (b)(1) through (4) of this section are retained by the Administrator of the U.S. EPA and are not transferred to the State, local, or tribal agency.

(1) Approval of an alternative non-opacity emissions standard under § 63.6(g).

(2) Approval of a major change to test methods under § 63.7(e)(2)(ii) and (f). A ''major change to test method'' is defined in § 63.90

(3) Approval of a major change to monitoring under § 63.8(f). A ''major change to monitoring'' is defined in § 63.90.

(4) Approval of a major change to recordkeeping/reporting under § 63.10(f). A ''major change to recordkeeping/reporting'' is defined in § 63.90.

As required in § 63.11432, you must comply with the requirements of the NESHAP General Provisions (40 CFR part 63, subpart A) as shown in the following table.

TABLE 1 TO SUBPART QQQQQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQQ

Citation	Subject	Applies to subpart QQQQQQ?	Explanation
63.1(a)(1), (a)(2), (a)(3), (a)(4), (a)(6), (a)(10)–(a)(12)(b)(1), (b)(3), (c)(1), (c)(2), (c)(5), (e).	Applicability	Yes.	
63.1(a)(5), (a)(7)–(a)(9), (b)(2), (c)(3), (c)(4), (d).	Reserved	No.	
63.2	Definitions	Yes.	
63.3	Units and Abbreviations	Yes.	

TABLE 1 TO SUBPART QQQQQQ OF PART 63.—APPLICABILITY OF GENERAL PROVISIONS TO SUBPART QQQQQQ—Continued

Citation	Subject	Applies to subpart QQQQQQ?	Explanation
63.4	Prohibited Activities and Circumvention.	Yes.	
63.5	Preconstruction Review and Notification Requirements.	No.	
63.6(a), (b)(1)–(b)(5), (b)(7), (c)(1), (c)(2), (c)(5), (e)(1), (i), (j).	Compliance with Standards and Maintenance Requirements.	Yes.	
63.6(e)(3)(i), (e)(3)(iii)–(e)(3)(ix), (f), (g), (h)(1), (h)(2), (h)(4), (h)(5)(i)–(h)(5)(iii), (h)(v)(v), (h)(6)–(h)(9).	No	Subpart QQQQQQ does not require startup, shutdown, and malfunction plan or contain emission or opacity limits.	
63.6(b)(6), (c)(3), (c)(4), (d), (e)(2), (e)(3)(ii), (h)(3), (h)(5)(iv).	Reserved	No.	
63.7	Performance Testing Requirements.	No	Subpart QQQQQQ does not require performance tests.
63.8(a)(1), (a)(2), (a)(4), (b), (c), (d), (e), (f), (g).	Monitoring Requirements	No	Subpart QQQQQQ does not require monitoring of emissions.
63.8(a)(3)	Reserved	No.	
63.9(a), (b)(1), (b)(2), (b)(4), (b)(5), (c), (d), (h)(1), (h)(6), (i), (j).	Notification Requirements	Yes.	
63.9(b)(2)(i)–(b)(2)(v), (h)(2)(i)–(h)(2)(ii), (h)(3), (h)(5).		Yes.	
63.9(e), (f), (g)		No.	
63.9(b)(3), (h)(4)	Reserved	No.	
63.10(a), (b), (c)(1), (c)(5)–(c)(8), (c)(10)–(c)(14), (d), (e), (f).	Recordkeeping and Reporting Requirements.	No	Subpart QQQQQQ establishes requirements for a report of deviations within 30 days.
63.10(c)(2)–(c)(4), (c)(9)	Reserved	No.	
63.11	Control Device Requirements	No	Subpart QQQQQQ does not require flares.
63.12	State Authorities and Delegations.	Yes.	
63.13	Addresses	Yes.	
63.14	Incorporations by Reference	Yes.	
63.15	Availability of Information and Confidentiality.	Yes.	
63.16	Performance Track Provisions	Yes.	

[FR Doc. E7–12018 Filed 7–13–07; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday,
July 16, 2007

Part III

Environmental Protection Agency

40 CFR Part 52

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[VA201–5201; FRL–8336–1]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is updating the materials submitted by Virginia that are incorporated by reference (IBR) into the State implementation plan (SIP). The regulations affected by this update have been previously submitted by the Virginia Department of Environmental Quality (DEQ) and approved by EPA. This update affects the SIP materials that are available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the Regional Office.

DATES: *Effective Date:* This action is effective July 16, 2007.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, EPA Headquarters Library, Room Number 3334, EPA West Building, 1301 Constitution Ave., NW., Washington, DC 20460, and the National Archives and Records Administration. If you wish to obtain materials from a docket in the EPA Headquarters Library, please call the Office of Air and Radiation (OAR) Docket/Telephone number: (202) 566–1742; or the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford, (215) 814–2108 or by e-mail at *frankford.harold@epa.gov.*

SUPPLEMENTARY INFORMATION: The SIP is a living document which the State revises as necessary to address the unique air pollution problems. Therefore, EPA from time to time must take action on SIP revisions containing new and/or revised regulations to make them part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference federally-approved SIPs, as a result of consultations between EPA and the Office of the **Federal Register** (OFR). The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997 **Federal Register** document. On April 21, 2000 (65 FR 21315), EPA published a **Federal Register** beginning the new IBR procedure for Virginia. On September 8, 2004 (69 FR 54216) and November 3, 2005 (70 FR 66769), EPA published updates to the IBR material for Virginia.

In this document, EPA is doing the following:

1. Announcing the update to the IBR material as of June 1, 2007.

2. Making corrections to the following entries listed in the paragraph 52.2420(c) chart, as described below:

a. Entries for 9 VAC 5, Chapter 20—duplicate entries are removed for entries 5–20–203, 5–20–204, 5–20–205 and 5–20–206.

b. Entry for 9 VAC 5, Chapter 20, Section 5–20–203—The entry in the ''Title/subject'' column is revised.

c. Entries for 9 VAC 5, Chapter 40, Part I—Explanatory text about a particular SIP revision approved on March 15, 2004 (69 FR 12074) is removed from the ''Explanation [former SIP citation]'' column.

d. Entry for 9 VAC 5, Chapter 40, Part II, Article 42—The date format in the ''State effective date'' column is revised.

e. Entries for 9 VAC 5, Chapter 50, Part I—Explanatory text about a particular SIP revision approved on March 15, 2004 (69 FR 12074) is removed from the ''Explanation [former SIP citation]'' column.

f. Entry for 9 VAC 5, Chapter 80, Article 9—The Article title is revised.

g. Entry for 9 VAC 5, Chapter 80, Article 9, Sections 5–80–2000 and 5–80–2010—The dates in the ''State effective date'' column are revised.

3. Making corrections to the following entries listed paragraph 52.2420(e) chart as described below:

a. The entries are reordered so that those entitled ''Documents Incorporated by Reference'' are grouped together;

b. Some of the entries entitled ''Documents Incorporated by Reference'' are revised so that the date format in the ''EPA approval date'' column is consistent throughout the table.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation, and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs. Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and contrary to the public interest since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations and incorrect chart entries.

Statutory and Executive Order Reviews

A. General Requirements

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.*).

B. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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

List of Subjects in 40 CFR Part 52

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

Dated: June 25, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 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 VV—Virginia

■ 2. Section 52.2420 is amended by revising paragraphs (b), (c), (d), and (e) to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(b) *Incorporation by reference.* (1) Material listed as incorporated by reference in paragraphs (c) and (d) was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates on or after June 1, 2007 will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region III certifies that the rules/regulations provided by EPA at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of June 1, 2007.

(3) Copies of the materials incorporated by reference may be inspected at the EPA Region III Office at 1650 Arch Street, Philadelphia, PA 19103; the EPA, Air and Radiation Docket and Information Center, Room Number 3334, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC 20460; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

(c) *EPA-Approved regulations.*

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Chapter 10 General Definitions [Part I]				
5–10–10	General	8/1/02	3/15/04, 69 FR 12074	Revised paragraphs A, B, C.
5–10–20	Terms Defined—Definitions of Administrator, Federally Enforceable, Implementation Plan, Potential to Emit, State Enforceable, Volatile Organic Compound.	4/1/96	3/12/97, 62 FR 11334	§ 52.2465(c)(113)(i)(B)(*1*).

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–10–20	Terms Defined— **Added Terms**—Department, Virginia Register Act **Revised Terms**—Administrative Process Act, Director (replaces *Executive Director*), Virginia Air Pollution Control Law	4/17/95	4/21/00, 65 FR 21315.	
5–10–20	Terms Defined [all other SIP-approved terms not listed above].	4/17/95	4/21/00, 65 FR 21315	120–01–02.
5–10–20	Terms Defined—	1/1/98	1/7/03, 68 FR 663	**Terms Added**—Public hearing; Regulations for the Control and Abatement of Air Pollution, Regulation of the Board, These regulations. **Terms Revised**—Good Engineering Practice, Person, Volatile organic compound. **Terms Deleted (moved to 9 VAC 5–170–20)**—Administrative Process Act, Air quality maintenance area, Confidential information, Consent agreement, Consent order, Emergency special order, Order, Special order, Variance.
5–10–20	Terms Defined	8/1/02	3/15/04, 69 FR 12074	**Terms Added:** EPA, Initial emissions test, Initial performance test (as corrected 11/05/03 and effective 01/01/04 in the Commonwealth), Maintenance area. **Terms Revised:** Affected facility, Delayed compliance order, Excessive concentration, Federally enforceable, Malfunction, Public hearing, Reference method, Reid vapor pressure, Stationary source, True vapor pressure, Vapor pressure, Volatile organic compounds. **Terms Removed:** Air Quality Maintenance Area.
5–10–20	Terms Defined	5/04/05	8/18/06, 71 FR 47742	definition of ''volatile organic compound''.
5–10–30	Abbreviations	7/1/97	4/21/00, 65 FR 21315	Appendix A.
	Chapter 20 General Provisions Part I Administrative			
5–20–10A.–C.	Applicability	4/17/95	4/21/00, 65 FR 21315	120–02–01.
5–20–70	Circumvention	4/17/95	4/21/00, 65 FR 21315	120–02–07.
5–20–80	Relationship of state regulations to federal regulations.	4/17/95	4/21/00, 65 FR 21315	120–02–08.
5–20–121	Air Quality Program Policies and Procedures.	7/1/97	4/21/00, 65 FR 21315	Appendix S.
	Part II Air Quality Programs			
5–20–160	Registration	4/17/95	4/21/00, 65 FR 21315	120–02–31.
5–20–170	Control Programs	4/17/95	4/21/00, 65 FR 21315	120–02–32.
5–20–180	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–02–34.
5–20–200	Air Quality Control Regions (AQCR).	7/1/97	4/21/00, 65 FR 21315	Appendix B.
5–20–202	Metropolitan Statistical Areas	7/1/97	4/21/00, 65 FR 21315	Appendix G.
5–20–203	Maintenance Areas	01/01/98, 04/01/98	8/18/06, 71 FR 47744.	
5–20–204	Nonattainment Areas	01/01/98, 04/01/98, 01/01/99, 08/25/04, 01/12/05	8/18/06, 71 FR 47744.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
		5/4/05	1/8/07, 72 FR 653	Paragraph 5–20–204A.3 is added.
5–20–205	Prevention of Significant Deterioration Areas.	01/01/98, 04/01/98, 01/01/99, 08/25/04	8/18/06, 71 FR 47744.	
5–20–206	Volatile Organic Compound and Nitrogen Oxides Emissions Control Areas.	10/04/06	3/2/07, 72 FR 9441	Addition of new Fredericksburg Area and expansion of Richmond and Hampton Roads Emission Control Areas.
5–20–220	Shutdown of a stationary source	4/1/98	6/27/03, 68 FR 38191.	
5–20–230	Certification of Documents	4/1/98	6/27/03, 68 FR 38191.	
VR120, Part II General Provisions				
VR120–02–02	Establishment of Regulations and Orders.	2/1/85	2/25/93, 58 FR 11373	EPA has informed VA that except for the *Appeals* rule, these provisions no longer need to be part of the SIP. VA has withdrawn 2/93 and 2/98 revisions to the *Appeals* rule from SIP review. Last substantive SIP change became State-effective on 8/6/79 [§ 52.2465(c)(55)].
VR120–02–04	Hearings and Proceedings	2/1/85	2/25/93, 58 FR 11373.	
VR120–02–05A.	Variances—General	2/1/85	2/25/93, 58 FR 11373.	
VR 2.05(b)	Variances—Fuel Emergency	8/14/75	10/8/80, 45 FR 66792.	
VR120–02–09	Appeals	2/1/85	2/25/93, 58 FR 11373.	
VR120–02–12	Procedural information and guidance.	2/1/85	2/25/93, 58 FR 11373.	
Appendix E	Public Participation Guidelines	2/1/85	2/25/93, 58 FR 11373.	
Appendix F	Delegation of Authority	2/1/85	2/25/93, 58 FR 11373.	
Chapter 30 Ambient Air Quality Standards [Part III]				
5–30–10	General	9/8/04	3/3/06, 71 FR 10842.	
5–30–30	Sulfur Oxides (Sulfur Dioxide)	9/8/04	3/3/06, 71 FR 10842.	
5–30–40	Carbon Monoxide	9/8/04	3/3/06, 71 FR 10842.	
5–30–50	Ozone (1-hour)	9/8/04	3/3/06, 71 FR 10842.	
5–30–55	Ozone (8-hour)	9/8/04	3/3/06, 71 FR 10842	Added Section.
5–30–60	Particulate Matter (PM_{10})	9/8/04	3/3/06, 71 FR 10842.	
5–30–65	Particulate Matter	9/8/04	3/3/06, 71 FR 10842	Added Section.
5–30–70	Nitrogen Dioxide	9/8/04	3/3/06, 71 FR 10842.	
5–30–80	Lead	9/8/04	3/3/06, 71 FR 10842.	
Chapter 40 Existing Stationary Sources [Part IV] Part I Special Provisions				
5–40–10	Applicability	8/1/02	3/15/04, 69 FR 12074.	
5–40–20 (except paragraph A.4.).	Compliance	8/1/02	3/15/04, 69 FR 12074.	
5–40–21	Compliance Schedules	7/1/97	4/21/00, 65 FR 21315	Appendix N.
5–40–22	Interpretation of Emissions Standards Based on Process Weight-Rate Tables.	7/1/97	4/21/00, 65 FR 21315	Appendix Q.
5–40–30	Emission Testing	8/1/02	3/15/04, 69 FR 12074.	
5–40–40	Monitoring	8/1/02	3/15/04, 69 FR 12074.	
5–40–41	Emission Monitoring Procedures for Existing Sources.	7/1/97	4/21/00, 65 FR 21315	Appendix J.
5–40–50	Notification, Records and Reporting.	8/1/02	3/15/04, 69 FR 12074.	
Part II Emission Standards Article 1 Visible Emissions and Fugitive Dust/Emissions (Rule 4–1)				
5–40–60	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0101.
5–40–70	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0102.
5–40–80	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0103.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–90	Standard for Fugitive Dust/Emissions.	2/1/03	4/29/05, 70 FR 22263.	
5–40–100	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0105.
5–40–110	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0106.
5–40–120	Waivers	2/1/03	4/29/05, 70 FR 22263.	
Article 4 Emission Standards for General Process Operations (Rule 4–4)				
5–40–240	Applicability and Designation of Affected Facility.	3/24/04	4/27/05, 70 FR 21625.	
5–40–250	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0402.
5–40–260	Standard for Particulate Matter (AQCR 1–6).	4/17/95	4/21/00, 65 FR 21315	120–04–0403.
5–40–270	Standard for Particulate Matter (AQCR 7).	4/17/95	4/21/00, 65 FR 21315	120–04–0404.
5–40–280	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–0405.
5–40–300	Standard for Volatile Organic Compounds.	10/04/06	3/2/07, 72 FR 9441.	
5–40–310A.–E	Standard for Nitrogen Oxides	3/24/04	4/27/05, 70 FR 21625.	
5–40–311	Reasonably available control technology guidelines for stationary sources of nitrogen dioxide.	7/1/97	4/28/99, 64 FR 22792	52.2420(c)(132) **Exceptions:** 311C.3.a, C.3.c, D.
5–40–320	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0409.
5–40–330	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0410.
5–40–360	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0413.
5–40–370	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0414.
5–40–380	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0415.
5–40–390	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0416.
5–40–400	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0417.
5–40–410	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0418.
5–40–420	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0419.
Article 5 Emission Standards for Synthesized Pharmaceutical Products Manufacturing Operations (Rule 4–5)				
5–40–430	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0501.
5–40–440	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0502.
4–40–450	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–0503.
5–40–460	Control Technology Guidelines	2/1/02	3/3/06, 71 FR 10838.	
5–40–470	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0505.
5–40–480	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0506.
5–40–510	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0509.
5–40–520	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0510.
5–40–530	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0511.
5–40–540	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0512.
5–40–550	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0513.
5–40–560	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0514.
5–40–570	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0515.
Article 6 Emission Standards for Rubber Tire Manufacturing Operations (Rule 4–6)				
5–40–580	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0601.
5–40–590	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0602.
5–40–600	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–0603.
5–40–610	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–0604.
5–40–620	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0605.
5–40–630	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0606.
5–40–660	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0609.
5–40–670	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0610.
5–40–680	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0611.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–690	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0612.
5–40–700	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0613.
5–40–710	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0614.
5–40–720	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0615.
Article 7 Emission Standards for Incinerators (Rule 4–7)				
5–40–730	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0701.
5–40–740	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0702.
5–40–750	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–0703.
5–40–760	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0704.
5–40–770	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0705.
5–40–800	Prohibition of Flue-Fed Incinerators.	4/17/95	4/21/00, 65 FR 21315	120–04–0708.
5–40–810	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0709.
5–40–820	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0710.
5–40–830	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0711.
5–40–840	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0712.
5–40–850	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0713.
5–40–860	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0714.
5–40–870	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0715.
Article 8 Emission Standards for Fuel Burning Equipment (Rule 4–8)				
5–40–880	Applicability and Designation of Affected Facility.	4/1/99	5/31/01, 66 FR 29495.	
5–40–890	Definitions	4/1/99	5/31/01, 66 FR 29495.	
5–40–900	Standard for Particulate Matter	4/1/99	5/31/01, 66 FR 29495.	
5–40–910	Emission Allocation System	4/17/95	4/21/00, 65 FR 21315	120–04–0804.
5–40–920	Determination of Collection Equipment Efficiency Factor.	4/17/95	4/21/00, 65 FR 21315	120–04–0805.
5–40–930	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–0806.
5–40–940	Standard for Visible Emissions	4/1/99	5/31/01, 66 FR 29495.	
5–40–950	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0808.
5–40–980	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0811.
5–40–990	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0812.
5–40–1000	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0813.
5–40–1010	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0814.
5–40–1020	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0815.
5–40–1030	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0816.
5–40–1040	Permits	4/1/99	5/31/01, 66 FR 29495.	
Article 9 Emission Standards for Coke Ovens (Rule 4–9)				
5–40–1050	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–0901.
5–40–1060	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–0902.
5–40–1070	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–0903.
5–40–1080	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–0904.
5–40–1090	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–0905.
5–40–1100	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–0906.
5–40–1130	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–0909.
5–40–1140	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–0910.
5–40–1150	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–0911.
5–40–1160	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–0912.
5–40–1170	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–0913.
5–40–1180	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–0914.
5–40–1190	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–0915.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 10 Emission Standards for Asphalt Concrete Plants (Rule 4–10)				
5–40–1200	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1001.
5–40–1210	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1002.
5–40–1220	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1003.
5–40–1230	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1004.
5–40–1240	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1005.
5–40–1270	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1008.
5–40–1280	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1009.
5–40–1290	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1010.
5–40–1300	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1011.
5–40–1310	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1012.
5–40–1320	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1013.
5–40–1330	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1014.
Article 11 Emission Standards for Petroleum Refinery Operations (Rule 4–11)				
5–40–1340	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1101.
5–40–1350	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1102.
5–40–1360	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1103.
5–40–1370	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–1104.
5–40–1390	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–1106.
5–40–1400	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–1107.
5–40–1410	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1108.
5–40–1420	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1109.
5–40–1450	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1112.
5–40–1460	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1113.
5–40–1470	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1114.
5–40–1480	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1115.
5–40–1490	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1116.
5–40–1500	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1117.
5–40–1510	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1118.
Article 12 Emission Standards for Chemical Fertilizer Manufacturing Operations (Rule 4–12)				
5–40–1520	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1201.
5–40–1530	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1202.
5–40–1540	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1203.
5–40–1550	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1204.
5–40–1560	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1205.
5–40–1590	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1208.
5–40–1600	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1209.
5–40–1610	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1210.
5–40–1620	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1211.
5–40–1630	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1212.
5–40–1640	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1213.
5–40–1650	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1214.
Article 13 Emission Standards for Kraft Pulp Mills (Rule 4–13)				
5–40–1660	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1301.
5–40–1670	Definitions of cross recovery furnace, kraft pulp mill, lime kiln, recovery furnace, smelt dissolving tank.	4/17/95	4/21/00, 65 FR 21315	120–04–1302. Remaining definitions are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see,* § 62.11610).
5–40–1680	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1303.
5–40–1700	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–1305.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–1710	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1306
5–40–1720.	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1307.
5–40–1750A	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1310A. **Note:** Sections 5–40–1750B. through D. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see*, § 62.11610).
5–40–1760	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1311.
5–40–1770A	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1312A. **Note:** Sections 5–40–1770B. and C. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see,* § 62.11610).
5–40–1780A	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1313A. **Note:** Sections 5–40–1780B. through D. are federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see,* § 62.11610).
5–40–1790	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1314.
5–40–1800	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1315.
5–40–1810	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1316.
Article 14 Emission Standards for Sand and Gravel Processing Operations and Stone Quarrying and Processing Operations (Rule 4–14)				
5–40–1820	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1401.
5–40–1830	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1402.
5–40–1840	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1403.
5–40–1850	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1404.
5–40–1860	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1405.
5–40–1890	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1408.
5–40–1900	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1409.
5–40–1910	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1410.
5–40–1920	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1411.
5–40–1930	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1412.
5–40–1940	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1413.
5–40–1950	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1414.
Article 15 Emission Standards for Coal Preparation Plants (Rule 5–15)				
5–40–1960	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1501.
5–40–1970	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1502.
5–40–1980	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1503.
5–40–1990	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1504.
5–40–2000	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1505.
5–40–2030	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1508.
5–40–2040	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1509.
5–40–2050	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1510.
5–40–2060	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1511.
5–40–2070	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1512.
5–40–2080	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1513.
5–40–2090	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1514.
Article 16 Emission Standards for Portland Cement Plants (Rule 4–16)				
5–40–2100	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1601.
5–40–2110	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1602.
5–40–2120	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1603.
5–40–2130	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–1604.
5–40–2140	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1605.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–2150	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1606.
5–40–2180	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1609.
5–40–2190	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1610.
5–40–2200	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1611.
5–40–2210	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1612.
5–40–2220	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1613.
5–40–2230	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1614.
5–40–2240	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1615.
Article 17 Emission Standards for Woodworking Operations (Rule 4–17)				
5–40–2250	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1701.
5–40–2260	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1702.
5–40–2270	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1703.
5–40–2280	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1704.
5–40–2290	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1705.
5–40–2320	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1708.
5–40–2330	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1709.
5–40–2340	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1710.
5–40–2350	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1711.
5–40–2360	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1712.
5–40–2370	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1713.
5–40–2380	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1714.
Article 18 Emission Standards for Primary and Secondary Metal Operations (Rule 4–18)				
5–40–2390	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1801.
5–40–2400	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1802.
5–40–2410	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1803.
5–40–2420	Standard for Sulfur Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–1804.
5–40–2430	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1805.
5–40–2440	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1806.
5–40–2470	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1809.
5–40–2480	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1810.
5–40–2490	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1811.
5–40–2500	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1812.
5–40–2510	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1813.
5–40–2520	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1814.
5–40–2530	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1815.
Article 19 Emission Standards for Lightweight Aggregate Process Operations (Rule 4–19)				
5–40–2540	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–1901.
5–40–2550	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–1902.
5–40–2560	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–1903.
5–40–2570	Standard for Sulfur Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–1904.
5–40–2580	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–1905.
5–40–2590	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–1906.
5–40–2620	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–1909.
5–40–2630	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–1910.
5–40–2640	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–1911.
5–40–2650	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–1912.
5–40–2660	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–1913.
5–40–2670	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–1914.
5–40–2680	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–1915.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 20 Emission Standards for Feed Manufacturing Operations (Rule 4–20)				
5–40–2690	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2001.
5–40–2700	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2002.
5–40–2710	Standard for Particulate Matter	4/17/95	4/21/00, 65 FR 21315	120–04–2003.
5–40–2720	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2004.
5–40–2730	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2005.
5–40–2760	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2008.
5–40–2770	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2009.
5–40–2780	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2010.
5–40–2790	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2011.
5–40–2800	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2012.
5–40–2810	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2013.
5–40–2820	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2014.
Article 21 Emission Standards for Sulfuric Acid Production Plants (Rule 4–21)				
5–40–2830	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2101.
5–40–2840	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2102.
5–40–2850	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–2103.
5–40–2870	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2105.
5–40–2880	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2106.
5–40–2910	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2109.
5–40–2920	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2110.
5–40–2930	Monitoring	2/1/02	3/3/06, 71 FR 10838.	
5–40–2940	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2112.
5–40–2950	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2113.
5–40–2960	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2114.
5–40–2970	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2115.
Article 22 Emission Standards for Sulfur Recovery Operations (Rule 4–22)				
5–40–2980	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2201.
5–40–2990	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2202.
5–40–3000	Standard for Sulfur Dioxide	4/17/95	4/21/00, 65 FR 21315	120–04–2203.
5–40–3010	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2204.
5–40–3020	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2205.
5–40–3050	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2208.
5–40–3060	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2209.
5–40–3070	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2210.
5–40–3080	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2211.
5–40–3090	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2212.
5–40–3100	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2213.
5–40–3110	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2214.
Article 23 Emission Standards for Nitric Acid Production Units (Rule 4–23)				
5–40–3120	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2301.
5–40–3130	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2302.
5–40–3140	Standard for Nitrogen Oxides	4/17/95	4/21/00, 65 FR 21315	120–04–2303.
5–40–3150	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2304.
5–40–3160	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2305.
5–40–3190	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2308.
5–40–3200	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2309.
5–40–3210	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2310.
5–40–3220	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2311.
5–40–3230	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2312.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–3240	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2313.
5–40–3250	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2314.
Article 24 Emission Standards for Solvent Metal Cleaning Operations Using Non-Halogenated Solvents (Rule 4–24)				
5–40–3260	Applicability and Designation of Affected Facility.	3/24/04	5/17/05, 70 FR 28215.	
5–40–3270	Definitions	4/1/97	11/3/99, 64 FR 59635.	
5–40–3280	Standard for Volatile Organic Compounds.	4/1/97	11/3/99, 64 FR 59635.	
5–40–3290	Control Technology Guidelines	4/1/97	11/3/99, 64 FR 59635.	
5–40–3300	Standard for Visible Emissions	4/1/97	11/3/99, 64 FR 59635.	
5–40–3310	Standard for Fugitive Dust/Emissions.	4/1/97	11/3/99, 64 FR 59635.	
5–40–3340	Compliance	4/1/97	11/3/99, 64 FR 59635.	
5–40–3350	Test Methods and Procedures	4/1/97	11/3/99, 64 FR 59635.	
5–40–3360	Monitoring	4/1/97	11/3/99, 64 FR 59635.	
5–40–3370	Notification, Records and Reporting.	4/1/97	11/3/99, 64 FR 59635.	
5–40–3380	Registration	4/1/97	11/3/99, 64 FR 59635.	
5–40–3390	Facility and Control Equipment Maintenance or Malfunction.	4/1/97	11/3/99, 64 FR 59635.	
5–40–3400	Permits	4/1/97	11/3/99, 64 FR 59635.	
Article 25 Emission Standards for Volatile Organic Compound Storage and Transfer Operations (Rule 4–25)				
5–40–3410	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2501.
5–40–3420	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2502.
5–40–3430	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2503.
5–40–3440	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2504.
5–40–3450	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2505.
5–40–3460	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2506.
5–40–3490	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2509.
5–40–3500	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2510.
5–40–3510	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2511.
5–40–3520	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2512.
5–40–3530	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2513.
5–40–3540	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2514.
5–40–3550	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2515.
Article 26 Emission Standards for Large Coating Application Systems (Rule 4–26)				
5–40–3560	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2601.
5–40–3570	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2602.
5–40–3580	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2603.
5–40–3590	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2604.
5–40–3600	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2605.
5–40–3610	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2606.
5–40–3640	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2609.
5–40–3650	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2610.
5–40–3660	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2611.
5–40–3670	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2612.
5–40–3680	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2613.
5–40–3690	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2614.
5–40–3700	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2615.
Article 27 Emission Standards for Magnet Wire Coating Application Systems (Rule 4–27)				
5–40–3710	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2701.
5–40–3720	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2702.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–3730	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2703.
5–40–3740	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2704.
5–40–3750	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2705.
5–40–3760	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2706.
5–40–3790	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2709.
5–40–3800	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2710.
5–40–3810	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2711.
5–40–3820	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2712.
5–40–3830	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2713.
5–40–3840	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2714.
5–40–3850	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2715.
Article 28 Emission Standards for Automobile and Light Duty Truck Coating Application Systems (Rule 4–28)				
5–40–3860	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2801.
5–40–3870	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2802.
5–40–3880	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2803.
5–40–3890	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2804.
5–40–3900	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2805.
5–40–3910	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2806.
5–40–3940	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2809.
5–40–3950	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2810.
5–40–3960	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2811.
5–40–3970	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2812.
5–40–3980	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2813.
5–40–3990	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2814.
5–40–4000	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2815.
Article 29 Emission Standards for Can Coating Application Systems (Rule 4–29)				
5–40–4010	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–2901.
5–40–4020	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–2902.
5–40–4030	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–2903.
5–40–4040	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–2904.
5–40–4050	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–2905.
5–40–4060	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–2906.
5–40–4090	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–2909.
5–40–4100	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–2910.
5–40–4110	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–2911.
5–40–4120	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–2912.
5–40–4130	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–2913.
5–40–4140	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–2914.
5–40–4150	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–2915.
Article 30 Emission Standards for Metal Coil Coating Application Systems (Rule 4–30)				
5–40–4160	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3001.
5–40–4170	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3002.
5–40–4180	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3003.
5–40–4190	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3004.
5–40–4200	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3005.
5–40–4210	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3006.
5–40–4240	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3009.
5–40–4250	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3010.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–4260	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3011.
5–40–4270	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3012.
5–40–4280	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3013.
5–40–4290	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3014.
5–40–4300	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3015.
Article 31 Emission Standards for Paper and Fabric Coating Application Systems (Rule 4–31)				
5–40–4310	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3101.
5–40–4320	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3102.
5–40–4330	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3103.
5–40–4340	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3104.
5–40–4350	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3105.
5–40–4360	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3106.
5–40–4390	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3109.
5–40–4400	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3110.
5–40–4410	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3111.
5–40–4420	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3112.
5–40–4430	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3113.
5–40–4440	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3114.
5–40–4450	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3115.
Article 32 Emission Standards for Vinyl Coating Application Systems (Rule 4–32)				
5–40–4460	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3201.
5–40–4470	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3202.
5–40–4480	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3203.
5–40–4490	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3204.
5–40–4500	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3205.
5–40–4510	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3206.
5–40–4540	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3209.
5–40–4550	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3210.
5–40–4560	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3211.
5–40–4570	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3212.
5–40–4580	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3213.
5–40–4590	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3214.
5–40–4600	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3215.
Article 33 Emission Standards for Metal Furniture Coating Application Systems (Rule 4–33)				
5–40–4610	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3301.
5–40–4620	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3302.
5–40–4630	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3303.
5–40–4640	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3304.
5–40–4650	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3305.
5–40–4660	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3306.
5–40–4690	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3309.
5–40–4700	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3310.
5–40–4710	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3311.
5–40–4720	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3312.
5–40–4730	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3313.
5–40–4740	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3314.
5–40–4750	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3315.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 34 Emission Standards for Miscellaneous Metal Parts and Products Coating Application Systems (Rule 4–34)				
5–40–4760	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3401.
5–40–4770	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3402.
5–40–4780	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3403.
5–40–4790	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3404.
5–40–4800	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3405.
5–40–4810	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3406.
5–40–4840	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3409.
5–40–4850	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3410.
5–40–4860	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3411.
5–40–4870	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3412.
5–40–4880	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3413.
5–40–4890	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3414.
5–40–4900	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3415.
Article 35 Emission Standards for Flatwood Paneling Coating Application Systems (Rule 4–35)				
5–40–4910	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3501.
5–40–4920	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3502.
5–40–4930	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3503.
5–40–4940	Control Technology Guidelines	4/17/95	4/21/00, 65 FR 21315	120–04–3504.
5–40–4950	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3505.
5–40–4960	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3506.
5–40–4990	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3509.
5–40–5000	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3510.
5–40–5010	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3511.
5–40–5020	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3512.
5–40–5030	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3513.
5–40–5040	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3514.
5–40–5050	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3515.
Article 36 Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines (Rule 4–36)				
5–40–5060	Applicability and Designation of Affected Facility.	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–5070	Definitions	4/1/96	3/12/97, 62 FR 11334	§ 52.2465(c)(113)(i)(B)(*4*).
5–40–5080	Standard for Volatile Organic Compounds.	4/1/96	3/12/97, 62 FR 11334.	
5–40–5090	Standard for Visible Emissions	4/1/96	3/12/97, 62 FR 11334.	
5–40–5100	Standard for Fugitive Dust/Emissions.	4/1/96	3/12/97, 62 FR 11334.	
5–40–5130	Compliance	4/1/96	3/12/97, 62 FR 11334.	
5–40–5140	Test Methods and Procedures	4/1/96	3/12/97, 62 FR 11334.	
5–40–5150	Monitoring	4/1/96	3/12/97, 62 FR 11334.	
5–40–5160	Notification, Records and Reporting.	4/1/96	3/12/97, 62 FR 11334.	
5–40–5170	Registration	4/1/96	3/12/97, 62 FR 11334.	
5–40–5180	Facility and Control Equipment Maintenance or Malfunction.	4/1/96	3/12/97, 62 FR 11334.	
5–40–5190	Permits	4/1/96	3/12/97, 62 FR 11334.	
Article 37 Emission Standards for Petroleum Liquid Storage and Transfer Operations (Rule 4–37)				
5–40–5200	Applicability and Designation of Affected Facility.	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–5210	Definitions	2/1/02	3/3/06, 71 FR 10838.	
5–40–5220	Standard for Volatile Organic Compounds.	3/24/04	4/27/05, 70 FR 21625.	
5–40–5230	Control Technology Guidelines	2/1/02	3/3/06, 71 FR 10838.	
5–40–5240	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3705.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–5250	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3706.
5–40–5280	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3709.
5–40–5290	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3710.
5–40–5300	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3711.
5–40–5310	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3712.
5–40–5320	Registration	4/17/95	4/21/00, 65 FR 21315	120–04–3713.
5–40–5330	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–04–3714.
5–40–5340	Permits	4/17/95	4/21/00, 65 FR 21315	120–04–3715.
Article 39 Emission Standards for Asphalt Paving Operations (Rule 4–39)				
5–40–5490	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–3901.
5–40–5500	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–3902.
5–40–5510	Standard for Volatile Organic Compounds.	4/17/95	4/21/00, 65 FR 21315	120–04–3903.
5–40–5520	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–04–3904.
5–40–5530	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–04–3905.
5–40–5560	Compliance	4/17/95	4/21/00, 65 FR 21315	120–04–3908.
5–40–5570	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–04–3909.
5–40–5580	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–04–3910.
5–40–5590	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–04–3911.
Article 40 Emission Standards for Open Burning (Rule 4–40)				
5–40–5600	Applicability	4/1/96	3/12/97, 62 FR 11332	Provisions of Article 40 are applicable only in the Northern Va and Richmond Emissions Control Areas as defined in 9 VAC 5–20–206.
5–40–5610	Definitions of ''refuse'', ''household refuse'', ''clean burning waste'', ''landfill'', ''local landfill'', ''sanitary landfill'', ''special incineration devise''.	4/1/96	3/12/97, 62 FR 11332.	
5–40–5610	All definitions not listed above	4/17/95	4/21/00, 65 FR 21315	120–04–4002.
5–40–5620	Open Burning Prohibitions	4/1/96	3/12/97, 62 FR 11332.	
5–40–5630	Permissible Open Burning	4/1/96	3/12/97, 62 FR 11332.	
5–40–5631	Forest Management and Agricultural Practices.	7/1/97	3/12/97, 62 FR 11332	Former Appendix D, effective 4/1/96.
Article 41 Emission Standards for Mobile Sources (Rule 4–41)				
5–40–5650	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–04–4101.
5–40–5660	Definitions	4/17/95	4/21/00, 65 FR 21315	120–04–4102.
5–40–5670	Motor Vehicles	4/17/95	4/21/00, 65 FR 21315	120–04–4103.
5–40–5680	Other Mobile Sources	4/17/95	4/21/00, 65 FR 21315	120–04–4104.
5–40–5690	Export/Import of Motor Vehicles	4/17/95	4/21/00, 65 FR 21315	120–04–4105.
Article 42 Emissions Standards for Portable Fuel Container Spillage in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–42)				
5–40–5700	Applicability	3/24/04	6/8/04, 69 FR 31893.	
5–40–5710	Definitions	3/24/04	6/8/04, 69 FR 31893.	
5–40–5720	Standard for volatile organic compounds.	3/24/04	6/8/04, 69 FR 31893.	
5–40–5730	Administrative requirements	3/24/04	6/8/04, 69 FR 31893.	
5–40–5740	Compliance	3/24/04	6/8/04, 69 FR 31893.	
5–40–5750	Compliance Schedules	3/24/04	6/8/04, 69 FR 31893.	
5–40–5760	Test methods and procedures	3/24/04	6/8/04, 69 FR 31893.	
5–40–5770	Notification, records and reporting	3/24/04	6/8/04, 69 FR 31893.	
Article 43 Municipal Solid Waste Landfills (Rule 4–43)				
5–40–5800	Applicability and Designation of Affected Facility.	1/29/04	12/29/04, 69 FR 77900.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–5810	Definitions	1/29/04	12/29/04, 69 FR 77900.	
5–40–5820	Standards for Air Emissions	1/29/04	12/29/04, 69 FR 77900.	
5–40–5822	Operational standards for collection and control systems.	1/29/04	12/29/04, 69 FR 77900.	
5–40–5824	Specifications for active collection systems.	1/29/04	12/29/04, 69 FR 77900.	
5–40–5850	Compliance	1/29/04	12/29/04, 69 FR 77900.	
5–40–5855	Compliance schedule	1/29/04	12/29/04, 69 FR 77900.	
5–40–5860	Test methods and procedures	1/29/04	12/29/04, 69 FR 77900.	
5–40–5870	Monitoring	1/29/04	12/29/04, 69 FR 77900.	
5–40–5880	Reporting	1/29/04	12/29/04, 69 FR 77900.	
5–40–5890	Recordkeeping	1/29/04	12/29/04, 69 FR 77900.	
5–40–5900	Registration	1/29/04	12/29/04, 69 FR 77900.	
5–40–5910	Facility and control equipment maintenance or malfunction.	1/29/04	12/29/04, 69 FR 77900.	
5–40–5920	Permits	1/29/04	12/29/04, 69 FR 77900.	
Article 47 Emission Standards for Solvent Metal Cleaning Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–47)				
5–40–6820	Applicability	3/24/04	6/9/04, 69 FR 32277.	
5–40–6830	Definitions	3/24/04	6/9/04, 69 FR 32277.	
5–40–6840	Standards for volatile organic compounds.	3/24/04	6/9/04, 69 FR 32277.	
5–40–6850	Standard for visible emissions	3/24/04	6/9/04, 69 FR 32277.	
5–40–6860	Standard for fugitive dust/emissions.	3/24/04	6/9/04, 69 FR 32277.	
5–40–6890	Compliance	3/24/04	6/9/04, 69 FR 32277.	
5–40–6900	Compliance schedules	3/24/04	6/9/04, 69 FR 32277.	
5–40–6910	Test methods and procedures	3/24/04	6/9/04, 69 FR 32277.	
5–40–6920	Monitoring	3/24/04	6/9/04, 69 FR 32277.	
5–40–6930	Notification, records and reporting	3/24/04	6/9/04, 69 FR 32277.	
5–40–6940	Registration	3/24/04	6/9/04, 69 FR 32277.	
5–40–6950	Facility and control equipment maintenance or malfunction.	3/24/04	6/9/04, 69 FR 32277.	
5–40–6960	Permits	3/24/04	6/9/04, 69 FR 32277.	
Article 48 Emission Standards for Mobile Equipment Repair and Refinishing Operations in the Northern Virginia Volatile Organic Compound Emissions Control Area (Rule 4–48)				
5–40–6970	Applicability and designation of affected facility.	3/24/04	6/24/04, 69 FR 35253.	
5–40–6980	Definitions	3/24/04	6/24/04, 69 FR 35253.	
5–40–6990	Standards for volatile organic compounds.	3/24/04	6/24/04, 69 FR 35253.	
5–40–7000	Standard for visible emissions	3/24/04	6/24/04, 69 FR 35253.	
5–40–7010	Standard for fugitive dust/emissions.	3/24/04	6/24/04, 69 FR 35253.	
5–40–7040	Compliance	3/24/04	6/24/04, 69 FR 35253.	
5–40–7050	Compliance schedule	3/24/04	6/24/04, 69 FR 35253.	
5–40–7060	Test methods and procedures	3/24/04	6/24/04, 69 FR 35253.	
5–40–7070	Monitoring	3/24/04	6/24/04, 69 FR 35253.	
5–40–7080	Notification, records and reporting	3/24/04	6/24/04, 69 FR 35253.	
5–40–7090	Registration	3/24/04	6/24/04, 69 FR 35253.	
5–40–7100	Facility and control equipment maintenance or malfunction.	3/24/04	6/24/04, 69 FR 35253.	
5–40–7110	Permits	3/24/04	6/24/04, 69 FR 35253.	
Article 49 Architectural And Industrial Maintenance Coatings (Rule 4–49)				
5–40–7120	Applicability and Designation of Affected Facility.	3/24/04	5/12/05, 70 FR 24970.	
5–40–7130	Definitions	3/24/04	5/12/05, 70 FR 24970.	
5–40–7140	Standard for Volatile Organic Compounds.	3/24/04	5/12/05, 70 FR 24970.	
5–40–7150	Container Labeling Requirements	3/24/04	5/12/05, 70 FR 24970.	
5–40–7160	Standard for Visible Emissions	3/24/04	5/12/05, 70 FR 24970.	
5–40–7170	Standard for Fugitive Dust/Emissions.	3/24/04	5/12/05, 70 FR 24970.	
5–40–7200	Compliance	3/24/04	5/12/05, 70 FR 24970.	
5–40–7210	Compliance Schedules	3/24/04	5/12/05, 70 FR 24970.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–40–7220	Test Methods and Procedures	3/24/04	5/12/05, 70 FR 24970.	
5–40–7230	Notification, Records and Reporting.	3/24/04	5/12/05, 70 FR 24970.	
Article 50 Consumer Products (Rule 4–50)				
5–40–7240	Applicability	3/9/05	1/30/07, 72 FR 4207.	
5–40–7250	Exemptions	3/9/05	1/30/07, 72 FR 4207.	
5–40–7260	Definitions	3/9/05	1/30/07, 72 FR 4207.	
5–40–7270	Standard for volatile organic compounds.	3/9/05	1/30/07, 72 FR 4207.	
5–40–7280	Alternative control plan (ACP) for consumer products.	3/9/05	1/30/07, 72 FR 4207.	
5–40–7290	Innovative Products	3/9/05	1/30/07, 72 FR 4207.	
5–40–7300	Administrative requirements	3/9/05	1/30/07, 72 FR 4207.	
5–40–7320	Compliance	3/9/05	1/30/07, 72 FR 4207.	
5–40–7330	Compliance schedules	3/9/05	1/30/07, 72 FR 4207.	
5–40–7340	Test methods and procedures	3/9/05	1/30/07, 72 FR 4207.	
5–40–7350	Monitoring	3/9/05	1/30/07, 72 FR 4207.	
5–40–7360	Notification, records and reporting	3/9/05	1/30/07, 72 FR 4207.	
Article 53 Emission Standards for Lithographic Printing Processes (Rule 4–53) [Formerly Article 45]				
5–40–7800	Applicability and designation of affected facility.	10/04/06	3/2/07, 72 FR 9441	Revised to include and exempt certain emission control areas.
5–40–7810	Definitions of ''alcohol,'' ''Cleaning solution,'' ''fountain solution,'' ''lithographic printing,'' ''printing process''.	4/1/96, 10/4/06	3/2/07, 72 FR 9441.	
5–40–7820	Standard for Volatile Organic Compounds.	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–7840	Standard for Visible Emissions	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–7850	Standard for Fugitive Dust Emissions.	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–7880	Compliance	10/04/06	3/2/07, 72 FR 9441	Revisions to compliance dates.
5–40–7890	Test Methods and Procedures	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–7900	Monitoring	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–7910	Notification, Records and Reporting.	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–7920	Registration	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–7930	Facility and Control Equipment Maintenance and Malfunction.	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
5–40–7940	Permits	04/01/96, 10/04/06	3/2/07, 72 FR 9441.	
Chapter 50 New and Modified Stationary Sources [Part V] Part I Special Provisions				
5–50–10	Applicability	8/1/02	3/15/04, 69 FR 12074.	
5–50–20	Compliance	8/1/02	3/15/04, 69 FR 12074.	
5–50–30	Performance Testing	8/1/02	3/15/04, 69 FR 12074.	
5–50–40	Monitoring	8/1/02	3/15/04, 69 FR 12074.	
5–50–50	Notification, Records and Reporting.	8/1/02	3/15/04, 69 FR 12074.	
Part II Emission Standards Article 1 Standards of Performance for Visible Emissions and Fugitive Dust/Emissions (Rule 5–1)				
5–50–60	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–05–0101.
5–50–70	Definitions	4/17/95	4/21/00, 65 FR 21315	120–05–0102.
5–50–80	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–05–0103.
5–50–90	Standard for Fugitive Dust/Emissions.	2/1/03	4/29/05, 70 FR 22263.	
5–50–100	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–05–0105.
5–50–110	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–05–0106.
5–50–120	Waivers	2/1/03	4/29/05, 70 FR 22263.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 4 Standards of Performance for Stationary Sources (Rule 5–4)				
5–50–240	Applicability and Designation of Affected Facility.	4/17/95	4/21/00, 65 FR 21315	120–05–0401.
5–50–250	Definitions	4/17/95	4/21/00, 65 FR 21315	120–05–0402.
5–50–260	Standard for Stationary Sources ..	4/17/95	4/21/00, 65 FR 21315	120–05–0403.
5–50–270	Standard for Major Stationary Sources (Nonattainment Areas).	4/17/95	4/21/00, 65 FR 21315	120–05–0404.
5–50–280	Standard for Major Stationary Sources (Prevention of Significant Deterioration Areas).	4/17/95	4/21/00, 65 FR 21315	120–05–0405.
5–50–290	Standard for Visible Emissions	4/17/95	4/21/00, 65 FR 21315	120–05–0406.
5–50–300	Standard for Fugitive Dust/Emissions.	4/17/95	4/21/00, 65 FR 21315	120–05–0407.
5–50–330	Compliance	4/17/95	4/21/00, 65 FR 21315	120–05–0410.
5–50–340	Test Methods and Procedures	4/17/95	4/21/00, 65 FR 21315	120–05–0411.
5–50–350	Monitoring	4/17/95	4/21/00, 65 FR 21315	120–05–0412.
5–50–360	Notification, Records and Reporting.	4/17/95	4/21/00, 65 FR 21315	120–05–0413.
5–50–370	Registration	4/17/95	4/21/00, 65 FR 21315	120–05–0414.
5–50–380	Facility and Control Equipment Maintenance or Malfunction.	4/17/95	4/21/00, 65 FR 21315	120–05–0415.
5–50–390	Permits	4/17/95	4/21/00, 65 FR 21315	120–05–0416.
Chapter 70 Air Pollution Episode Prevention [Part VII]				
5–70–10	Applicability	4/17/95	4/21/00, 65 FR 21315	120–07–01.
5–70–20	Definitions	4/17/95	4/21/00, 65 FR 21315	120–07–02.
5–70–30	General	4/17/95	4/21/00, 65 FR 21315	120–07–03.
5–70–40	Episode Determination	4/1/99	10/19/00, 65 FR 62626 ..	References to ''TSP'' have been removed.
5–70–50	Standby Emission Reduction Plans.	4/17/95	4/21/00, 65 FR 21315	120–07–05.
5–70–60	Control Requirements	4/17/95	4/21/00, 65 FR 21315	120–07–06.
5–70–70	Local Air Pollution Control Agency Participation.	4/17/95	4/21/00, 65 FR 21315	120–07–07.
Chapter 80 Permits for Stationary Sources [Part VIII]				
5–80–10	New and Modified Stationary Sources.	4/17/95	4/21/00, 65 FR 21315	120–08–01.
10A	Applicability	4/17/95	4/21/00, 65 FR 21315	01A.
10B	Definitions	4/17/95	4/21/00, 65 FR 21315	01B.
10C (Exc.C.1.b).	General	4/17/95	4/21/00, 65 FR 21315	01C. (Exc.C.1.b).
10D	Applications	4/17/95	4/21/00, 65 FR 21315	01D.
10E	Information required	4/17/95	4/21/00, 65 FR 21315	01E.
10F	Action on permit application	4/17/95	4/21/00, 65 FR 21315	01F.
10G	Public participation	4/17/95	4/21/00, 65 FR 21315	01G.; Exceptions: 10.G.1 and .10G.4.b.
VR120–08–01C.4.b., c	Public Participation—public hearing requirements for major modifications.	7/31/81; recodified 2/1/85	5/4/82, 47 FR 19134; recodified 2/25/93, 58 FR 11373.	See § 52.2423(o).
10H.2. and 10H.3	Standards for granting permits	4/17/95	4/21/00, 65 FR 21315	01H.2. and 01H.3.
10I.1. and 10I.3	Application review and analysis ...	4/17/95	4/21/00, 65 FR 21315	01I.1. and 01I.3.
10J	Compliance determination and verification by performance testing.	4/17/95	4/21/00, 65 FR 21315	01J
10K	Permit invalidation, revocation and enforcement.	4/17/95	4/21/00, 65 FR 21315	01K.
10L	Existence of permit no defense ...	4/17/95	4/21/00, 65 FR 21315	01L.
10M	Compliance with local zoning requirements.	4/17/95	4/21/00, 65 FR 21315	01M.
10N	Reactivation and permanent shutdown.	4/17/95	4/21/00, 65 FR 21315	01N.
10O	Transfer of permits	4/17/95	4/21/00, 65 FR 21315	01O.
10P	Circumvention	4/17/95	4/21/00, 65 FR 21315	01P.
5–80–11	Stationary source permit exemption levels.	7/1/97	4/21/00, 65 FR 21315	Appendix R.
Article 5 State Operating Permits				
5–80–800	Applicability	4/1/98	6/27/03, 68 FR 38191.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–80–810	Definitions	4/1/98	6/27/03, 68 FR 38191.	
5–80–820	General	4/1/98	6/27/03, 68 FR 38191.	
5–80–830	Applications	4/1/98	6/27/03, 68 FR 38191.	
5–80–840	Application information required	4/1/98	6/27/03, 68 FR 38191.	
5–80–850	Standards and conditions for granting permits.	4/1/98	6/27/03, 68 FR 38191.	
5–80–860	Action on permit application	4/1/98	6/27/03, 68 FR 38191.	
5–80–870	Application review and analysis	4/1/98	6/27/03, 68 FR 38191.	
5–80–880	Compliance determination and verification by testing.	4/1/98	6/27/03, 68 FR 38191.	
5–80–890	Monitoring requirements	4/1/98	6/27/03, 68 FR 38191.	
5–80–900	Reporting requirements	4/1/98	6/27/03, 68 FR 38191.	
5–80–910	Existence of permits no defense	4/1/98	6/27/03, 68 FR 38191.	
5–80–920	Circumvention	4/1/98	6/27/03, 68 FR 38191.	
5–80–930	Compliance with local zoning requirements.	4/1/98	6/27/03, 68 FR 38191.	
5–80–940	Transfer of permits	4/1/98	6/27/03, 68 FR 38191.	
5–80–950	Termination of permits	4/1/98	6/27/03, 68 FR 38191.	
5–80–960	Changes to permits	4/1/98	6/27/03, 68 FR 38191.	
5–80–970	Administrative permit amendments.	4/1/98	6/27/03, 68 FR 38191.	
5–80–980	Minor permit amendments	4/1/98	6/27/03, 68 FR 38191.	
5–80–990	Significant permit amendments	4/1/98	6/27/03, 68 FR 38191.	
5–80–1000	Reopening for cause	4/1/98	6/27/03, 68 FR 38191.	
5–80–1010	Enforcement	4/1/98	6/27/03, 68 FR 38191.	
5–80–1020	Public participation	4/1/98	6/27/03, 68 FR 38191.	
5–80–1030	General permits	4/1/98	6/27/03, 68 FR 38191.	
5–80–1040	Review and evaluation of article	4/1/98	6/27/03, 68 FR 38191.	
Article 8 Permits-Major Stationary Sources and Major Modifications Located in Prevention of Significant Deterioration Areas				
5–80–1700	Applicability	1/1/97	3/23/98, 63 FR 13795.	
5–80–1710	Definitions	1/1/97	3/23/98, 63 FR 13795.	
5–80–1720	General	1/1/97	3/23/98, 63 FR 13795.	
5–80–1730	Ambient Air Increments	1/1/97	3/23/98, 63 FR 13795.	
5–80–1740	Ambient Air Ceilings	1/1/97	3/23/98, 63 FR 13795.	
5–80–1750	Applications	1/1/97	3/23/98, 63 FR 13795.	
5–80–1760	Compliance with Local Zoning Requirements.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1770	Compliance Determination and Verification by Performance Testing.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1780	Stack Heights	1/1/97	3/23/98, 63 FR 13795.	
5–80–1790	Review of Major Stationary Sources and Major Modifications—Source Applicability and Exemptions.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1800	Control Technology Review	1/1/97	3/23/98, 63 FR 13795.	
5–80–1810	Source Impact Analysis	1/1/97	3/23/98, 63 FR 13795.	
5–80–1820	Air Quality Models	1/1/97	3/23/98, 63 FR 13795.	
5–80–1830	Air Quality Analysis	1/1/97	3/23/98, 63 FR 13795.	
5–80–1840	Source Information	1/1/97	3/23/98, 63 FR 13795.	
5–80–1850	Additional Impact Analyses	1/1/97	3/23/98, 63 FR 13795.	
5–80–1860	Sources Impacting Federal Class I Areas—Additional Requirements.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1870	Public Participation	1/1/97	3/23/98, 63 FR 13795.	
5–80–1880	Source Obligation	1/1/97	3/23/98, 63 FR 13795.	
5–80–1890	Environmental Impact Statements	1/1/97	3/23/98, 63 FR 13795.	
5–80–1900	Disputed Permits	1/1/97	3/23/98, 63 FR 13795.	
5–80–1910	Interstate Pollution Abatement	1/1/97	3/23/98, 63 FR 13795.	
5–80–1920	Innovative Control Technology	1/1/97	3/23/98, 63 FR 13795.	
5–80–1930	Reactivation and Permanent Shutdown.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1940	Transfer of Permits	1/1/97	3/23/98, 63 FR 13795.	
5–80–1950	Permit Invalidation, Revocation, and Enforcement.	1/1/97	3/23/98, 63 FR 13795.	
5–80–1960	Circumvention	1/1/97	3/23/98, 63 FR 13795.	
5–80–1970	Review and Confirmation of this Chapter by Board.	1/1/97	3/23/98, 63 FR 13795.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Article 9 Permits-Major Stationary Sources and Major Modifications Located in Nonattainment Areas or the Ozone Transport Region				
5–80–2000	Applicability	12//1/04	7/13/06, 71 FR 39570..	
5–80–2010	Definitions	12/1/04	7/13/06, 71 FR 39570..	
5–80–2020	General	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03C (9/21/99, 64 FR 51047).
5–80–2030	Applications	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03D (9/21/99, 64 FR 51047).
5–80–2040	Information required	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03E (9/21/99, 64 FR 51047).
5–80–2050	Standards/conditions for granting permits.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03F (9/21/99, 64 FR 51047).
5–80–2060	Action on permit application	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03G (9/21/99, 64 FR 51047).
5–80–2070	Public Participation 1/1/93	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03H (9/21/99, 64 FR 51047).
5–80–2080	Compliance determination and verification by performance testing.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03I (9/21/99, 64 FR 51047).
5–80–2090	Application review and analysis	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03J (9/21/99, 64 FR 51047).
5–80–2100	Circumvention	1/1/93, 4/199	4/21/00, 65 FR 21315	.03K (9/21/99, 64 FR 51047).
5–80–2110	Interstate pollution abatement	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03L (9/21/99, 64 FR 51047).
5–80–2120	Offsets	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03M (9/21/99, 64 FR 51047).
5–80–2130	De minimis increases and stationary source modification alternatives for ozone nonattainment areas classified as serious or severe in 9 VAC 5–20–204.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03N (9/21/99, 64 FR 51047).
5–80–2140	Exception	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03O (9/21/99, 64 FR 51047).
5–80–2150	Compliance with local zoning requirements.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03P (9/21/99, 64 FR 51047).
5–80–2160	Reactivation and Permit Shutdown.	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03Q (9/21/99, 64 FR 51047).
5–80–2170	Transfer of Permits	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03R (9/21/99, 64 FR 51047).
5–80–2180	Revocation of permit	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03S (9/21/99, 64 FR 51047).
5–80–2190	Existence of permit no defense	1/1/93, 4/1/99	4/21/00, 65 FR 21315	.03T (9/21/99, 64 FR 51047).
Chapter 91 Regulations for the Control of Motor Vehicle Emissions in the Northern Virginia Area				
Part I Definitions				
5–91–10	General	1/24/97	9/1/99, 64 FR 47670.	
5–91–20	Terms Defined	1/24/97	9/1/99, 64 FR 47670	**Exception**—"Northern Virginia program area" does not include Fauquier County, Effective 1/1/98.
Part II General Provisions				
5–91–30	Applicability and authority of the department.	1/24/97	9/1/99, 64 FR 47670.	
5–91–40	Establishment of Regulations and Orders.	1/24/97	9/1/99, 64 FR 47670.	
5–91–50	Documents Incorporated by Reference.	1/24/97	9/1/99, 64 FR 47670.	
5–91–60	Hearings and Proceedings	1/24/97	9/1/99, 64 FR 47670.	
5–91–70	Appeal of Case Decisions	1/24/97	9/1/99, 64 FR 47670.	
5–91–80	Variances	1/24/97	9/1/99, 64 FR 47670.	
5–91–90	Right of entry	1/24/97	9/1/99, 64 FR 47670.	
5–91–100	Conditions on approvals	1/24/97	9/1/99, 64 FR 47670.	
5–91–110	Procedural information and guidance.	1/24/97	9/1/99, 64 FR 47670.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–91–120	Export and import of motor vehicles.	1/24/97	9/1/99, 64 FR 47670.	
5–91–130	Relationship of state regulations to federal regulations.	1/24/97	9/1/99, 64 FR 47670.	
5–91–140	Delegation of authority	1/24/97	9/1/99, 64 FR 47670.	
5–91–150	Availability of information	1/24/97	9/1/99, 64 FR 47670.	
	Part III Emission Standards for Motor Vehicle Air Pollution			
5–91–160	Exhaust emission standards for two-speed idle testing in enhanced emissions inspection programs.	1/24/97	9/1/99, 64 FR 47670.	
5–91–170	Exhaust emission standards for ASM testing in enhanced emissions inspection programs.	1/24/97	9/1/99, 64 FR 47670.	
5–91–180	Exhaust emission standards for on-road testing through remote sensing.	1/24/97	9/1/99, 64 FR 47670.	
5–91–190	Emissions control systems standards.	1/24/97	9/1/99, 64 FR 47670.	
5–91–200	Evaporative emissions standards	1/24/97	9/1/99, 64 FR 47670.	
5–91–210	Visible emissions standards	1/24/97	9/1/99, 64 FR 47670.	
	Part IV Permitting and Operation of Emissions Inspection Stations			
5–91–220	General provisions	1/24/97	9/1/99, 64 FR 47670.	
5–91–230	Applications	1/24/97	9/1/99, 64 FR 47670.	
5–91–240	Standards and conditions for permits.	1/24/97	9/1/99, 64 FR 47670.	
5–91–250	Action on permit application	1/27/97	9/1/99, 64 FR 47670.	
5–91–260	Emissions inspection station permits, categories.	1/24/97	9/1/99, 64 FR 47670.	
5–91–270	Permit renewals	1/24/97	9/1/99, 64 FR 47670.	
5–91–280	Permit revocation, surrender of materials.	1/24/97	9/1/99, 64 FR 47670.	
5–91–290	Emission inspection station operations.	1/24/97	9/1/99, 64 FR 47670.	
5–91–300	Emissions inspection station records.	1/24/97	9/1/99, 64 FR 47670.	
5–91–310	Sign and permit posting	1/24/97	9/1/99, 64 FR 47670.	
5–91–320	Equipment and facility requirements.	1/24/97	9/1/99, 64 FR 47670.	
5–91–330	Analyzer system operation	1/24/97	9/1/99, 64 FR 47670.	
5–91–340	Motor vehicle inspection report; certificate of emission inspection.	1/24/97	9/1/99, 64 FR 47670.	
5–91–350	Data media	1/24/97	9/1/99, 64 FR 47670.	
5–91–360	Inspector number and access code usage.	1/24/97	9/1/99, 64 FR 47670.	
5–91–370	Fleet emissions inspection stations; mobile fleet emissions inspection stations.	1/24/97	9/1/99, 64 FR 47670.	
	Part V Emissions Inspector Testing and Licensing			
5–91–380	Emissions inspector licences and renewals.	1/24/97	9/1/99, 64 FR 47670.	
5–91–390	Qualification requirements for emissions inspector licenses.	1/24/97	9/1/99, 64 FR 47670.	
5–91–400	Conduct of emissions inspectors	1/24/97	9/1/99, 64 FR 47670.	
	Part VI Inspection Procedures			
5–91–410	General	1/24/97	9/1/99, 64 FR 47670.	
5–91–420	Inspection procedure; rejection, pass, fail, waiver.	1/24/97	9/1/99, 64 FR 47670.	
5–91–430	ASM test procedure	1/24/97	9/1/99, 64 FR 47670.	
5–91–440	Two-speed idle test procedure	1/24/97	9/1/99, 64 FR 47670.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
4–91–450	Fuel system evaporative pressure test and gas cap pressure test procedure.	1/24/97	9/1/99, 64 FR 47670.	
4–91–460	Fuel system evaporative purge test procedure.	1/24/97	9/1/99, 64 FR 47670.	
5–91–470	Short test standards for warranty eligibility.	1/24/97	9/1/99, 64 FR 47670.	
5–91–480	Emissions related repairs	1/24/97	9/1/99, 64 FR 47670.	
5–91–490	Engine and fuel changes	1/24/97	9/1/99, 64 FR 47670.	
Part VII Vehicle Emissions Repair Facility Certification				
5–91–500	Applicability and Authority	1/24/97	9/1/99, 64 FR 47670.	
5–91–510	Certification Qualifications	1/24/97	9/1/99, 64 FR 47670.	
5–91–520	Expiration, reinstatement, renewal, and requalification.	1/24/97	9/1/99, 64 FR 47670.	
5–91–530	Emissions repair facility operations.	1/24/97	9/1/99, 64 FR 47670.	
5–91–540	Sign Posting	1/24/97	9/1/99, 64 FR 47670.	
Part VIII Emissions Repair Technician Certification and Responsibilities				
5–91–550	Applicability and authority	1/24/97	9/1/99, 64 FR 47670.	
5–91–560	Certification qualifications for emissions repair technicians.	1/24/97	9/1/99, 64 FR 47670.	
5–91–570	Expiration, reinstatement, renewal and requalification.	1/24/97	9/1/99, 64 FR 47670.	
5–91–580	Certified emissions repair technician responsibilities.	1/24/97	9/1/99, 64 FR 47670.	
Part IX Enforcement Procedures				
5–91–590	Enforcement of regulations, permits, licenses, certifications and orders.	4/2/97	9/1/99, 64 FR 47670.	
5–91–600	General enforcement process	4/2/97	9/1/99, 64 FR 47670.	
5–91–610	Consent orders and penalties for violations.	4/2/97	9/1/99, 64 FR 47670.	
5–91–620	Major violations	4/2/97	9/1/99, 64 FR 47670.	
5–91–630	Minor violations	4/2/97	9/1/99, 64 FR 47670.	
Part X Analyzer System Certification and Specifications for Enhanced Emissions Inspections Programs				
5–91–640	Applicability	1/24/97	9/1/99, 64 FR 47670.	
5–91–650	Design goals	1/24/97	9/1/99, 64 FR 47670.	
5–91–660	Warranty; service contract	1/24/97	9/1/99, 64 FR 47670.	
5–91–670	Owner provided services	1/24/97	9/1/99, 64 FR 47670.	
5–91–680	Certification of analyzer systems	1/24/97	9/1/99, 64 FR 47670.	
5–91–690	Span gases; gases for calibration purposes.	1/24/97	9/1/99, 64 FR 47670.	
5–91–700	Calibration of exhaust gas analyzers.	1/24/97	9/1/99, 64 FR 47670.	
5–91–710	Upgrade of analyzer system	1/24/97	9/1/99, 64 FR 47670.	
Part XI Manufacturer Recall				
5–91–720	Vehicle manufacturer recall	1/24/97	9/1/99, 64 FR 47670.	
5–91–730	Exemptions; temporary extensions.	1/24/97	9/1/99, 64 FR 47670.	
Part XII On-Road Testing				
5–91–740	General Requirements	1/24/97	9/1/99, 64 FR 47670.	
5–91–750	Operating Procedures; violation of standards.	1/24/97	9/1/99, 64 FR 47670.	
5–91–760	Schedule of civil charges	1/24/97	9/1/99, 64 FR 47670.	
Part XIII Federal Facilities				
5–91–770	General requirements	1/24/97	9/1/99, 64 FR 47670.	
5–91–780	Proof of compliance	1/24/97	9/1/99, 64 FR 47670.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
Part XIV ASM Exhaust Emission Standards				
5–91–790	ASM start-up standards	1/24/97	9/1/99, 64 FR 47670.	
5–91–800	ASM final standards	1/24/97	9/1/99, 64 FR 47670.	
Chapter 140 Regulation for Emissions Trading Part I NO_X Budget Trading Program Article 1 NO_X Budget Trading Program General Provisions				
5–140–10	Purpose.	7/17/02	7/8/03, 68 FR 40520.	
5–140–20	Definitions	7/17/02	7/8/03, 68 FR 40520.	
5–140–30	Measurements, abbreviations, and acronyms.	7/17/02	7/8/03, 68 FR 40520.	
5–140–31	Federal Regulations Incorporated by reference.	7/17/02	7/8/03, 68 FR 40520.	
5–140–40	Applicability	7/17/02	7/8/03, 68 FR 40520.	
5–140–50	Retired unit exemption	7/17/02	7/8/03, 68 FR 40520.	
5–140–60	Standard requirements	7/17/02	7/8/03, 68 FR 40520.	
5–140–70	Computation of time	7/17/02	7/8/03, 68 FR 40520.	
Article 2 NO_X Authorized Account Representative for NO_X Budget Sources				
5–140–100	Authorization and responsibilities of the NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
5–140–110	Alternate NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
5–140–120	Changing the NO_X authorized account representative and alternate NO_X authorized account representative; changes in the owners and operators.	7/17/02	7/8/03, 68 FR 40520.	
5–140–130	Account certificate of representation.	7/17/02	7/8/03, 68 FR 40520.	
5–140–140	Objections concerning the NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
Article 3 Permits				
5–140–200	General NO_X Budget permit requirements.	7/17/02	7/8/03, 68 FR 40520.	
5–140–210	Submission of NO_X Budget permit applications.	7/17/02	7/8/03, 68 FR 40520.	
5–140–220	Information requirements for NO_X Budget permit applications.	7/17/02	7/8/03, 68 FR 40520.	
5–140–230	NO_X Budget permit contents	7/17/02	7/8/03, 68 FR 40520.	
5–140–240	Effective date of initial NO_X Budget permit.	7/17/02	7/8/03, 68 FR 40520.	
5–140–250	NO_X Budget permit revisions	7/17/02	7/8/03, 68 FR 40520.	
Article 4 Compliance Certification				
5–140–300	Compliance certification report	7/17/02	7/8/03, 68 FR 40520.	
5–140–310	Permitting authority's and administrator's action on compliance certifications.	7/17/02	7/8/03, 68 FR 40520.	
Article 5 NO_X Allowance Allocations				
5–140–400	State trading program budget	7/17/02	7/8/03, 68 FR 40520.	
5–140–410	Timing requirements for NO_X allowance allocations.	7/17/02	7/8/03, 68 FR 40520.	
5–140–420	NO_X allowance allocations.	7/17/02	7/8/03, 68 FR 40520.	
5–140–430	Compliance Supplement Pool	7/17/02	7/8/03, 68 FR 40520.	
Article 6 NO_X Allowance Tracking System				
5–140–500	NO_X Allowance Tracking System accounts.	7/17/02	7/8/03, 68 FR 40520.	
5–140–510	Establishment of accounts	7/17/02	7/8/03, 68 FR 40520.	

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–140–520	NO_X Allowance Tracking System responsibilities of NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
5–140–530	Recordation of NO_X allowance allocations.	7/17/02	7/8/03, 68 FR 40520.	
5–140–540	Compliance	7/17/02	7/8/03, 68 FR 40520.	
5–140–550	Banking	3/24/04	8/25/04, 69 FR 52174.	
5–140–560	Account error	7/17/02	7/8/03, 68 FR 40520.	
5–140–570	Closing of general accounts	7/17/02	7/8/03, 68 FR 40520.	
	Article 7 NO_X Allowance Transfers			
5–140–600	Scope and submission of NO_X allowance transfers.	7/17/02	7/8/03, 68 FR 40520.	
5–140–610	EPA recordation	7/17/02	7/8/03, 68 FR 40520.	
5–140–620	Notification	7/17/02	7/8/03, 68 FR 40520.	
	Article 8 Monitoring and Reporting			
5–140–700	General Requirements	7/17/02	7/8/03, 68 FR 40520.	
5–140–710	Initial certification and recertification procedures.	7/17/02	7/8/03, 68 FR 40520.	
5–140–720	Out of control periods	7/17/02	7/8/03, 68 FR 40520.	
5–140–730	Notifications	7/17/02	7/8/03, 68 FR 40520.	
5–140–740	Recordkeeping and reporting	7/17/02	7/8/03, 68 FR 40520.	
5–140–750	Petitions	7/17/02	7/8/03, 68 FR 40520.	
5–140–760	Additional requirements to provide heat input data for allocation purposes.	7/17/02	7/8/03, 68 FR 40520.	
	Article 9 Individual Unit Opt-ins			
5–140–800	Applicability	7/17/02	7/8/03, 68 FR 40520.	
5–140–810	General	7/17/02	7/8/03, 68 FR 40520.	
5–140–820	NO_X authorized account representative.	7/17/02	7/8/03, 68 FR 40520.	
5–140–830	Applying for NO_X Budget opt-in permit.	7/17/02	7/8/03, 68 FR 40520.	
5–140–840	Opt-in process	7/17/02	7/8/03, 68 FR 40520.	
5–140–850	NO_X Budget opt-in permit contents.	7/17/02	7/8/03, 68 FR 40520.	
5–140–860	Withdrawal from NO_X Budget Trading Program.	7/17/02	7/8/03, 68 FR 40520.	
5–140–870	Change in regulatory status	7/17/02	7/8/03, 68 FR 40520.	
5–140–880	NO_X allowance allocations to opt-in units.	7/17/02	7/8/03, 68 FR 40520.	
	Article 10 State Trading Program Budget and Compliance Pool			
5–140–900	State trading program budget	7/17/02	7/8/03, 68 FR 40520.	
5–140–910	Compliance supplement pool budget.	7/17/02	7/8/03, 68 FR 40520.	
5–140–920	Total electric generating unit allocations.	7/17/02	7/8/03, 68 FR 40520.	
5–140–930	Total non-electric generating unit allocations.	7/17/02	7/8/03, 68 FR 40520.	
	Chapter 160 Regulation for General Conformity Part I General Definitions			
5–160–10	General	1/1/98	1/7/03, 68 FR 663.	
5–160–20	Terms Defined	1/1/97	10/21/97, 62 FR 54585.	
5–160–20	Terms Defined	1/1/97, 1/1/98	1/7/03, 68 FR 663	**Terms revised**—Emergency, **Terms deleted**—Administrative Process Act, Confidential information, Consent agreement, Consent order, Emergency special order, Formal hearing, Order, Party, Public hearing, Special order, Variance, Virginia Register Act.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
	Part II General Provisions			
5–160–30	Applicability	1/1/97	10/21/97, 62 FR 54585.	
5–160–40	Authority of board and department.	1/1/97	10/21/97, 62 FR 54585.	
5–160–80	Relationship of state regulations to federal regulations.	1/1/97	10/21/97, 62 FR 54585.	
	Part III Criteria and Procedures for Making Conformity Determinations			
5–160–110	General	1/1/97	10/21/97, 62 FR 54585.	§ 52.2465(c)(118)
5–160–120	Conformity analysis	1/1/97	10/21/97, 62 FR 54585.	
5–160–130	Reporting requirements	1/1/97	10/21/97, 62 FR 54585.	
5–160–140	Public participation	1/1/97	10/21/97, 62 FR 54585.	
5–160–150	Frequency of conformity determinations.	1/1/97	10/21/97, 62 FR 54585.	
5–160–160	Criteria for determining conformity	1/1/97	10/21/97, 62 FR 54585.	
5–160–170	Procedures for conformity determinations.	1/1/97	10/21/97, 62 FR 54585.	
5–160–180	Mitigation of air quality impacts	1/1/97	10/21/97, 62 FR 54585.	
5–160–190	Savings provision	1/1/97	10/21/97, 62 FR 54585.	
5–160–200	Review and confirmation of this chapter by board.	1/1/97	10/21/97, 62 FR 54585.	
	Chapter 170 Regulation for General Administration **Part I Definitions**			
5–170–10	Use of Terms	1/1/98	1/7/03, 68 FR 663	Split out from 9 VAC 5–10–10.
5–170–20	Terms Defined	1/1/98	1/7/03, 68 FR 663	Split out from 9 VAC 5–10–20 and 5–160–20, **Terms Added**—Public hearing, Regulation of the Board, **Terms Revised from 4/17/95 version**—Consent agreement, Consent order, Emergency special order, Order, Owner, Person, Pollutant, Special Order, Source.
	Part II General Provisions			
5–170–30	Applicability	1/1/98	1/7/03, 68 FR 663	Split out from 9 VAC 5–20–10.
5–170–60	Availability of Information	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–150 and 5–160–100.
	Part V Enforcement			
5–170–120A.–C.	Enforcement of Regulations, Permits and Orders.	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–30A.–D. and 5–160–60.
5–170–130A.	Right of Entry	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–100.
	Part VI Board Actions			
5–170–150	Local Ordinances	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–60.
5–170–160	Conditions on Approvals	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–110.
5–170–170	Considerations for Approval Actions.	1/1/98	1/7/03, 68 FR 663	Replaces 9 VAC 5–20–140.
	Chapter 200 National Low Emission Vehicle Program			
5–200–10	Definitions	4/14/99	12/28/99, 64 FR 72564.	
5–200–20	Participation in national LEV	4/14/99	12/28/99, 64 FR 72564.	
5–200–30	Transition from national LEV requirements to a Virginia Sec. 177 program.	4/14/99	12/28/99, 64 FR 72564.	
	2 VAC 5 Chapter 480 Regulation Governing the Oxygenation of Gasoline			
5–480–10	Definitions	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 1.
5–480–20	Applicability	11/1/96	2/17/00, 65 FR 8051.	
5–480–30	Minimum oxygenate content	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 3.
5–480–40	Nature of oxygenates	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 4.

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
5–480–50	Record keeping and transfer requirements.	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 5.
5–480–60	Gasoline pump labeling	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 6.
5–480–70	Sampling, testing and oxygen content calculations.	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 7.
5–480–80	Compliance and enforcement	11/1/93	1/7/03, 68 FR 663	VR115–04–28, § 8.
Code of Virginia				
Section 10.1–1316.1A. Through D.	Severe ozone nonattainment areas; fees.	7/1/04	12/29/04, 69 FR 77909 ..	Provision authorizes the Department of Environmental Quality (DEQ) to collect Federal penalty fees from major stationary sources if the nonattainment area does not attain the ozone standard by the statutory attainment date.

(d) *EPA-Approved State Source Specific Requirements*

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Norfolk Naval Base—Exchange Service Station.	[NONE]	8/6/79	8/17/81, 46 FR 41499.	52.2465(c)(41).
Reynolds Metals Co.—Rolling Mill	DSE–597–87	9/30/87	8/20/90, 55 FR 33904.	52.2465(c)(92).
Aqualon (Hercules) Company	50363	9/26/90	11/1/91, 56 FR 56159.	52.2465(c)(93).
Nabisco Brands, Inc	DTE–179–91	4/24/91	3/6/92, 57 FR 8080.	52.2465(c)(95).
Reynolds Metals Co.—Bellwood	DSE–413A–86	10/31/86	6/13/96, 61 FR 29963.	52.2465(c)(110).
Reynolds Metals Co.—Richmond Foil Plant.	DSE–412A–86	10/31/86	6/13/96, 61 FR 29963.	52.2465(c)(110).
Philip Morris, Inc.—Blended Leaf Facility	50080	2/27/86	10/14/97, 62 FR 53277.	52.2465(c)(120).
Philip Morris, Inc.—Park 500 Facility	50722	3/26/97	10/14/97, 62 FR 53277.	52.2465(c)(120).
Philip Morris, Inc.—Richmond Manufacturing Center.	50076	7/13/96	10/14/97, 62 FR 53277.	52.2465(c)(120).
Virginia Electric and Power Co.—Innsbrook Technical Center.	50396	5/30/96	10/14/97, 62 FR 53277.	52.2465(c)(120).
Hercules, Inc.—Aqualon Division	V–0163–96	7/12/96	10/14/97, 62 FR 53277.	52.2465(c)(120).
City of Hopewell—Regional Wastewater Treatment Facility.	50735	5/30/96	10/14/97, 62 FR 53277.	52.2465(c)(120).
Allied Signal, Inc.—Hopewell Plant	50232	3/26/97	10/14/97, 62 FR 53277.	52.2465(c)(121).
Allied Signal, Inc.—Chesterfield Plant	V–0114–96	5/20/96	10/14/97, 62 FR 53277.	52.2465(c)(121).
Bear Island Paper Co. L.P	V–0135–96	7/12/96	10/14/97, 62 FR 53277.	52.2465(c)(121).
Stone Container Corp.—Hopewell Mill	50370	5/30/96	10/14/97, 62 FR 53277.	52.2465(c)(121).
E.I. Dupont de Nemours and Co.—Spruance Plant.	V–0117–96	5/30/96	10/14/97, 62 FR 53277.	52.2465(c)(121).
ICI Americas Inc.—Films Division—Hopewell Site.	50418	5/30/96	10/14/97, 62 FR 53277.	52.2465(c)(121).
Tuscarora, Inc	71814	6/5/96	1/22/99, 64 FR 3425.	52.2465(c)(128).
Potomac Electric Power Company (PEPCO)—Potomac River Generating Station [Permit to Operate]	Registration No. 70228; County-Plant No. 510–0003.	9/18/00	12/14/00, 65 FR 78100.	52.2420(d)(2).
Virginia Power (VP)—Possum Point Generating Station [Permit to Operate].	Registration No. 70225; County-Plant No. 153–0002.	9/26/00	12/14/00, 65 FR 78100.	52.2420(d)(2).

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS—Continued

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Cellofoam North America, Inc.—Falmouth Plant [Consent Agreement].	Registration No. 40696; FSO–193–98	8/10/98	1/02/01, 66 FR 8.	52.2420(d)(3).
CNG Transmission Corporation—Leesburg Compressor Station [Permit to Operate].	Registration No. 71978; County-Plant No. 107–0101.	5/22/00	1/02/01, 66 FR 8.	52.2420(d)(3).
Columbia Gas Transmission Company—Loudoun County Compressor Station [Permit to Operate].	Registration No. 72265; County-Plant No. 107–0125.	5/23/2000	1/02/01, 66 FR 8.	52.2420(d)(3).
District of Columbia's Department of Corrections—Lorton Correctional Facility [Permit to Operate].	Registration No. 70028; County-Plant No. 0059–0024.	12/10/99	1/02/01, 66 FR 8.	52.2420(d)(3).
Michigan Cogeneration Systems, Inc.—Fairfax County I–95 Landfill [Permit to Operate].	Registration No. 71961; County-Plant No. 0059–0575.	5/10/00	1/02/01, 66 FR 8.	52.2420(d)(3).
Metropolitan Washington Airports Authority—Ronald Reagan Washington National Airport [Permit to Operate].	Registration No. 70005; County-Plant No. 0013–0015.	5/22/00	1/02/01, 66 FR 8.	52.2420(d)(3).
Noman M. Cole, Jr., Pollution Control Plant [Consent Agreement].	Registration No. 70714	12/13/99	1/02/01, 66 FR 8.	52.2420(d)(3).
Ogden Martin Systems of Alexandria/Arlington, Inc. [Consent Agreement].	Registration No. 71895; NVRO–041–98	7/31/98	1/02/01, 66 FR 8.	52.2420(d)(3).
Ogden Martin Systems of Fairfax, Inc. [Consent Agreement].	Registration No. 71920	4/3/98	1/02/01, 66 FR 8.	52.2420(d)(3).
U.S. Department of Defense—Pentagon Reservation [Permit to Operate].	Registration No. 70030; County-Plant No. 0013–0188.	5/17/00	1/02/01, 66 FR 8.	52.2420(d)(3).
Potomac Electric Power Company ..... (PEPCO)—Potomac River Generating Station [Consent Agreement]	Registration No. 70228; NVRO–106–98	7/31/98	1/02/01, 66 FR 8.	52.2420(d)(3) NO_X RACT requirements.
Potomac Electric Power Company ..... (PEPCO)—Potomac River Generating Station.	Registration No. 70228; County Plant No. 510–0003.	5/8/00	1/02/01, 66 FR 8.	52.2420(d)(3) VOC RACT requirements.
United States Marine Corps.—Quantico Base [Permit to Operate].	Registration No. 70267; County-Plant No. 153–0010.	5/24/00	1/02/01, 66 FR 8.	52.2420(d)(3).
Transcontinental Gas Pipeline Corporation—Compressor Station No. 185 [Consent Agreement].	Registration No. 71958	9/5/96	1/02/01, 66 FR 8.	52.2420(d)(3).
U.S. Army Garrison at Fort Belvoir [Permit to Operate].	Registration No. 70550; County-Plant No. 059–0018.	5/16/00	1/02/01, 66 FR 8.	52.2420(d)(3).
Virginia Power (VP)—Possum Point Generating Station [Permit containing NO_X RACT requirements].	Registration No. 70225; County-Plant No. 153–0002.	7/21/00	1/02/01, 66 FR 8.	52.2420(d)(3).
Virginia Electric and Power Company—Possum Point Generating Station [Consent Agreement containing VOC RACT requirements].	Registration No. 70225	6/12/95	1/02/01, 66 FR 8.	52.2420(d)(3).
Washington Gas Light Company—Springfield Operations Center [Consent Agreement].	Registration No. 70151; NVRO–031–98	4/3/98	1/02/01, 66 FR 8.	52.2420(d)(3).
Georgia Pacific—Jarratt Softboard Plant	Registration No. 50253	9/28/98	3/26/03, 68 FR 14542.	40 CFR 52.2420(d)(4); **Note:** In Section E, Provision 1, the portion of the text which reads '' * * * and during periods of start-up, shutdown, and malfunction.'' is not part of the SIP.
Prince William County Landfill	Registration No. 72340	4/16/04	9/9/04; 69 FR 54581.	52.2420(d)(5).
Washington Gas Company, Ravensworth Station.	Registration No. 72277	4/16/04 08/11/04	10/6/2004; 69 FR 59812.	52.2420(d)(6).
Central Intelligence Agency (CIA), George Bush Center for Intelligence.	Registration No. 71757	4/16/04	12/13/04; 69 FR 72115.	52.2420(d)(6).
National Reconnaissance Office, Boeing Service Center.	Registration No. 71988	4/16/04	12/13/04; 69 FR 72115.	52.2420(d)(6).
Roanoke Electric Steel Corp	Registration No. 20131	12/22/04	4/27/05; 70 FR 21621.	52.2420(d)(7).
Roanoke Cement Company	Registration No. 20232	12/22/04	4/27/05; 70 FR 21621.	52.2420(d)(7).

EPA-APPROVED SOURCE SPECIFIC REQUIREMENTS—Continued

Source name	Permit/order or registration number	State effective date	EPA approval date	40 CFR part 52 citation
Norfolk Southern Railway Company—East End Shops.	Registration No. 20468	12/22/04	4/27/05; 70 FR 21621.	52.2420(d)(7).
Global Stone Chemstone Corporation	Registration No. 80504	02/09/05	4/27/05; 70 FR 21621.	52.2420(d)(7).

(e) *EPA-approved nonregulatory and quasi-regulatory material.*

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
Commitment Letter—Clean fuel fleet or alternative substitute program.	Northern Virginia Ozone nonattainment Area.	1/25/93	9/23/93, 58 FR 50846.	52.2423(j).
9 VAC 5–60–100 (adopts 40 CFR 63.460 through 63.469 by reference).	Statewide	10/9/98	11/3/99, 64 FR 59648.	52.2423(q).
Documents Incorporated by Reference	Statewide	4/12/89	8/23/95, 60 FR 43714.	52.2423(m).
Documents Incorporated by Reference	Statewide	2/12/93	8/23/95, 60 FR 43714.	52.2423(n).
Documents Incorporated by Reference (9 VAC 5–20–21, Section E).	Statewide	6/22/99	1/7/03, 68 FR 663.	52.2423(r).
Documents Incorporated by Reference (9 VAC 5–20–21, paragraph E.12).	Statewide	2/23/04	6/8/04, 69 FR 31893.	52.2423(s).
Documents Incorporated by Reference	Northern Virginia VOC Emissions Control Area designated in 9 VAC 5–20–206.	3/24/04	5/12/05, 70 FR 24970.	9 VAC 5–20–21, Sections E.1.a.(7)., E.4.a.(12) through a.(17), E.10., E.11., E.13.a.(1), and E.13.a.(2).
Documents Incorporated by Reference (9 VAC 5–20–21, Sections D., E. (introductory sentence), E.2 (all paragraphs), E.3.b, E.4.a.(1) and (2), E.4.b., E.5. (all paragraphs), and E.7. (all paragraphs)).	Statewide	8/25/05	3/3/06, 71 FR 10838.	State effective date is 2/1/00.
Documents Incorporated by Reference (9 VAC 5–20–21, Section B.	Statewide	10/25/05	3/3/06, 71 FR 10838.	State effective date is 3/9/05; approval is for those provisions of the CFR which implement control programs for air pollutants related to the national ambient air quality standards (NAAQS) and regional haze.
Documents Incorporated by Reference	Northern Virginia VOC Emissions Control Area designated in 9 VAC 5–20–206.	10/25/05	1/30/07, 72 FR 4207.	State effective date is 3/9/05 9 VAC 5–20–21, Sections E.1.a.(16), E.4.a.(18) through a.(20), E.6.a, E.11.a.(3), E.12.a.(5) through a.(8), E.14.a. and E.14.b.
Motor vehicle emissions budgets	Hampton Roads Ozone Maintenance Area	8/29/96	6/26/97, 62 FR 34408.	52.2424(a).
Motor vehicle emissions budgets	Richmond Ozone Maintenance Area	7/30/96	11/17/97, 62 FR 61237.	52.2424(b).
1990 Base Year Emissions Inventory—Carbon Monoxide (CO).	Metropolitan Washington Area	11/1/93, 4/3/95, 10/12/95	1/30/96, 61 FR 2931.	52.2425(a).
1990 Base Year Emissions Inventory—Carbon Monoxide (CO), oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Richmond-Petersburg, Norfolk-Virginia Beach, and Smyth County Ozone Areas.	11/11/92, 11/18/92, 11/1/93, 12/15/94	9/16/96, 61 FR 48657.	52.2425(b).
1990 Base Year Emissions Inventory—Carbon Monoxide (CO), oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	11/30/92, 11/1/93, 4/3/95	9/16/96, 61 FR 54656.	52.2425(c).

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
1990 Base Year Emissions Inventory-oxides of nitrogen (NO_X), & volatile organic compounds (VOC).	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	12/17/97	7/8/98, 63 FR 36854.	
Photochemical Assessment Monitoring Stations (PAMS) Program.	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	11/15/94	9/11/95, 60 FR 47081.	52.2426.
Attainment determination of the ozone NAAQS.	Richmond Ozone Nonattainment Area	7/26/96	10/6/97, 62 FR 52029.	52.2428(a).
15% rate of progress plan	Northern Virginia (Metropolitan Washington) Ozone Nonattainment Area.	4/14/98	10/6/00, 65 FR 59727.	52.2428(b).
Small business stationary source technical and environmental assistance program.	Statewide	11/10/92	2/14/94, 59 FR 5327.	52.2460.
Establishment of Air Quality Monitoring Network.	Statewide	3/24/80	12/5/80, 45 FR 86530.	52.2465(c)(38).
Lead (Pb) SIP	Statewide	12/31/80	3/21/82, 45 FR 8566.	52.2465(c)(61).
Carbon Monoxide Maintenance Plan	Arlington County & Alexandria City	10/4/95	1/30/96, 61 FR 2931.	52.2465(c)(107).
		3/22/04	04/04/05, 70 FR 16958.	Revised Carbon Monoxide Maintenance Plan Base Year Emissions Inventory using MOBILE6.
Ozone Maintenance Plan, emissions inventory & contingency measures.	Hampton Roads Area	8/27/96	6/26/97, 62 FR 34408.	52.2465(c)(117).
Ozone Maintenance Plan, emissions inventory & contingency measures.	Richmond Area	7/26/96	11/17/97, 62 FR 61237.	52.2465(c)(119).
Non-Regulatory Voluntary Emission Reduction Program.	Washington, DC severe 1-hour ozone nonattainment area.	2/25/2004	5/12/05, 70 FR 24987.	The nonregulatory measures found in section 7.6 and Appendix J of the plan.
1996–1999 Rate-of-Progress Plan SIP and the Transportation Control Measures (TCMs) in Appendix H.	Washington 1-hour ozone nonattainment area.	12/29/2003, 5/25/1999	5/16/05, 70 FR 25688.	Only the TCMs in Appendix H of the 5/25/1999 revision, 1999 motor vehicle emissions budgets of 128.5 tons per day (tpy) of VOC and 196.4 tpy of NO_X.
1990 Base Year Inventory Revisions, ...	Washington 1-hour ozone nonattainment area.	8/19/2003, 2/25/2004	5/16/05, 70 FR 25688.	
1999–2005 Rate-of-Progress Plan SIP Revision and the Transportation Control Measures (TCMs) in Appendix J.	Washington 1-hour ozone nonattainment area.	8/19/2003, 2/25/2004	5/16/05, 70 FR 25688.	Only the TCMs in Appendix J of the 2/25/2004 revision, 2002 motor vehicle emissions budgets (MVEBs) of 125.2 tons per day (tpy) for VOC and 290.3 tpy of NO_X, and, 2005 MVEBs of 97.4 tpy for VOC and 234.7 tpy of NO_X.
VMT Offset SIP Revision	Washington 1-hour ozone nonattainment area.	8/19/2003, 2/25/2004	5/16/05, 70 FR 25688.	
Contingency Measure Plan	Washington 1-hour ozone nonattainment area.	8/19/2003, 2/25/2004	5/16/05, 70 FR 25688.	
1-hour Ozone Modeled Demonstration of Attainment and Attainment Plan.	Washington 1-hour ozone nonattainment area.	8/19/2003, 2/25/2004	5/16/05, 70 FR 25688.	2005 motor vehicle emissions budgets of 97.4 tons per day (tpy) for VOC and 234.7 tpy of NO_X.
Attainment Demonstration and Early Action Plan for the Roanoke MSA Ozone Early Action Compact Area.	Botetourt County, Roanoke City, Roanoke County, and Salem City.	12/21/04, 2/15/05	8/17/05, 70 FR 43277.	
Attainment Demonstration and Early Action Plan for the Northern Shenandoah Valley Ozone Early Action Compact Area.	City of Winchester and Frederick County ..	12/20/04, 02/15/05	8/17/05, 70 FR 43280.	
8–Hour Ozone Maintenance Plan for the Fredericksburg VA Area.	City of Fredericksburg, Spotsylvania County, and Stafford County.	5/4/05	12/23/05, 70 FR 76165.	
8–Hour Ozone Maintenance Plan for the Madison & Page Cos. (Shenandoah NP), VA Area.	Madison County (part) and Page County (part).	9/23/05	1/3/05, 71 FR 24.	

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
8–Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Norfolk-Virginia Beach-Newport News (Hampton Roads), VA Area.	10/12/06, 10/16/06, 10/18/06, 11/20/06, 2/13/07	6/1/07, 72 FR 30490.	The SIP effective date is 6/1/07.
8–Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Richmond-Petersburg, VA Area	9/18/06, 9/20/06, 9/25/06, 11/17/06, 2/13/07	6/1/07, 72 FR 30485.	The SIP effective date is 6/18/07.

[FR Doc. E7–13545 Filed 7–13–07; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday,
July 16, 2007

Part IV

Environmental Protection Agency

40 CFR Parts 51 and 59
National Volatile Organic Compound Emission Standards for Aerosol Coatings; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51 and 59

[EPA–HQ–OAR–2006–0971; FRL–8336–5]

RIN 2060–AN69

National Volatile Organic Compound Emission Standards for Aerosol Coatings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This action proposes a national reactivity-based volatile organic compound (VOC) emissions regulation for the aerosol coatings (aerosol spray paints) category under section 183(e) of the Clean Air Act (CAA). The proposed standards implement section 183(e) of the CAA, as amended in 1990, which requires the Administrator to control VOC emissions from certain categories of consumer and commercial products for purposes of minimizing VOC emissions contributing to ozone formation and causing non-attainment. This regulation will establish a nationwide reactivity-based standard for aerosol coatings. States have promulgated rules for the aerosol coatings category based upon reductions of VOC by mass; however, the Agency believes that a national rule based upon the relative reactivity approach may achieve more reduction in ozone formation than can be achieved by a mass-based approach for this specific product category. EPA believes that this rule will better control a product's contribution to ozone formation by encouraging the use of less reactive VOC ingredients, rather than treating all VOC in a product alike through the traditional mass-based approach. We are also proposing to revise EPA's regulatory definition of VOC exempt compounds for purposes of this regulation in order to account for all the reactive compounds in aerosol coatings that contribute to ozone formation. Therefore, compounds that would not be VOC under the otherwise applicable definition will count towards a product's reactivity limits under this proposed regulation. The initial listing of product categories and schedule for regulation was published on March 23, 1995 (60 FR 15264). This proposed action announces EPA's final decision to list aerosol coatings for regulation under group III of the consumer and commercial product category for which regulations are mandated under section 183 (e) of the Act.

DATES: *Comments.* Written comments on the proposed regulation must be received by EPA by August 15, 2007, unless a public hearing is requested by July 26, 2007. If a hearing is requested, written comments must be received by August 30, 2007.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing concerning the proposed regulation by July 26, 2007, we will hold a public hearing on July 31, 2007.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2006–0971, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-docket@epa.gov.*
- *Fax:* (202) 566–1741.
- *Mail:* Air and Radiation Docket, Environmental Protection Agency, Mailcode 6102T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Please include a total of two copies. We request that a separate copy also be sent to the contact person identified below (see **FOR FURTHER INFORMATION CONTACT**). In addition, please mail a copy of your comments on the information collection provisions to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attn: Desk Officer for EPA, 725 17th St., NW., Washington, DC 20503.
- *Hand Delivery:* EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to the applicable docket. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. 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. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Public Hearing. If a public hearing is held, it will be held at 10 a.m. on July 31, 2007 at Building C on the EPA campus in Research Triangle Park, NC, or at an alternate site nearby. Persons interested in presenting oral testimony must contact Ms. Dorothy Apple, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–4487, fax number (919) 541–3470, e-mail address: *apple.dorothy@epa.gov,* no later than July 26, 2007 in the **Federal Register**. Persons interested in attending the public hearing must also call Ms. Apple to verify the time, date, and location of the hearing. If no one contacts Ms. Apple by July 26, 2007 in the **Federal Register** with a request to present oral testimony at the hearing, we will cancel the hearing.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the EPA Docket Center, Public Reading Room, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1742, and the telephone number for the Air Docket is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: For information concerning the aerosol coatings rule, contact Ms. J. Kaye Whitfield, U.S. EPA, Office of Air Quality Planning and Standards, Sector

Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–2509, fax number (919) 541–3470, e-mail address: *whitfield.kaye@epa.gov*. For information concerning the CAA section 183(e) consumer and commercial products program, contact Mr. Bruce Moore, U.S. EPA, Office of Air Quality Planning and Standards, Sector Policies and Programs Division, Natural Resources and Commerce Group (E143–03), Research Triangle Park, North Carolina 27711, telephone number: (919) 541–5460, fax number (919) 541–3470, e-mail address: *moore.bruce@epa.gov*.

SUPPLEMENTARY INFORMATION: *Entities Potentially Affected by this Action.* The entities potentially regulated by the proposed regulation encompass aerosol coatings operations. This includes manufacturers, processors, wholesale distributors, or importers of aerosol coatings for sale or distribution in the United States, or manufacturers, processors, wholesale distributors, or importers that supply the entities listed with aerosol coatings for sale or distribution in interstate commerce in the United States. The entities potentially affected by this action include:

Category	NAICS code [a]	Examples of regulated entities
Paint and coating manufacturing	32551	Manufacturing of lacquers, varnishes, enamels, epoxy coatings, oil and alkyd vehicle, plastisols, polyurethane, primers, shellacs, stains, water repellant coatings.
All other miscellaneous chemical production and preparation manufacturing.	325998	Aerosol can filling, aerosol packaging services.

[a] *http://www.census.gov/epcd/www/naics.html.*

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. To determine whether you would be affected by this action, you should examine the applicable industry description in section I.E of this notice. If you have any questions regarding the applicability of this action to a particular entity, consult the appropriate EPA contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

Preparation of Comments. Do not submit information containing CBI to EPA through *www.regulations.gov* or e-mail. Send or deliver information identified as CBI only to the following address: Mr. Roberto Morales, OAQPS Document Control Officer (C404–02), U.S. EPA, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, Attention: Docket ID EPA–HQ–OAR–2006–0971. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, 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 claimed as CBI. In addition to one complete version of the comment that includes 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. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

World Wide Web (WWW). In addition to being available in the docket, an electronic copy of this proposed action will also be available on the Worldwide Web (WWW) through the Technology Transfer Network (TTN). Following signature, a copy of the proposed action will be posted on the TTN's policy and guidance page for newly proposed or promulgated rules at the following address: *http://www.epa.gov/ttn/oarpg/*. The TTN provides information and technology exchange in various areas of air pollution control.

Organization of This Document. The information presented in this notice is organized as follows:

I. Background
A. The Ozone Problem
B. Statutory and Regulatory Background
C. What is Photochemical Reactivity?
D. Role of Reactivity in VOC/Ozone Regulations
E. The Aerosol Coating Industry
II. Summary of Proposed Standards
A. Applicability of the Standards and Regulated Entities
B. Regulated Pollutant
C. Regulatory Limits
D. Compliance Requirements
E. Labeling Requirements
F. Recordkeeping and Reporting
G. Variance
H. Test Methods
III. Summary of Impacts
A. Environmental Impacts
B. Energy Impacts
C. Cost and Economic Impacts
IV. Rationale
A. Applicability
B. Regulated Pollutant
C. Regulatory Approach
D. VOC Regulatory Limits
E. Compliance Demonstration Requirements
F. Labeling Requirements
G. Recordkeeping and Reporting Requirements
H. Variance Criteria
I. Test Methods
V. Statutory and Executive Order (EO) Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

I. Background

A. The Ozone Problem

Ground-level ozone, a major component of smog, is formed in the atmosphere by reactions of VOC and oxides of nitrogen in the presence of sunlight. The formation of ground-level ozone is a complex process that is affected by many variables.

Exposure to ground-level ozone is associated with a wide variety of human health effects, as well as agricultural crop loss, and damage to forests and ecosystems. Controlled human exposure studies show that acute health effects are induced by short-term (1 to 2 hour) exposures (observed at concentrations as low as 0.12 parts per million (ppm)), generally while individuals are engaged in moderate or heavy exertion, and by prolonged (6 to 8 hour) exposures to ozone (observed at concentrations as low as 0.08 ppm and possibly lower), typically while individuals are engaged

in moderate exertion. Transient effects from acute exposures include pulmonary inflammation, respiratory symptoms, effects on exercise performance, and increased airway responsiveness. Epidemiological studies have shown associations between ambient ozone levels and increased susceptibility to respiratory infection, increased hospital admissions and emergency room visits. Groups at increased risk of experiencing elevated exposures include active children, outdoor workers, and others who regularly engage in outdoor activities. Those most susceptible to the effects of ozone include those with preexisting respiratory disease, children, and older adults. The literature suggests the possibility that long-term exposures to ozone may cause chronic health effects (e.g., structural damage to lung tissue and accelerated decline in baseline lung function).

B. Statutory and Regulatory Background

Under section 183(e) of the CAA, EPA conducted a study of VOC emissions from the use of consumer and commercial products to assess their potential to contribute to levels of ozone that violate the National Ambient Air Quality Standards (NAAQS) for ozone, and to establish criteria for regulating VOC emissions from these products. Section 183(e) of the CAA directs EPA to list for regulation those categories of products that account for at least 80 percent of the VOC emissions, on a reactivity-adjusted basis, from consumer and commercial products in areas that violate the NAAQS for ozone (i.e., ozone nonattainment areas), and to divide the list of categories to be regulated into four groups.

EPA published the initial list in the **Federal Register** on March 23, 1995 (60 FR 15264). In that notice, EPA stated that it may amend the list of products for regulation, and the groups of product categories, in order to achieve an effective regulatory program in accordance with the Agency's discretion under CAA section 183(e). EPA has revised the list several times. Most recently, in May 2006, EPA revised the list to add one product category, portable fuel containers, and to remove one product category, petroleum dry cleaning solvents. See 71 FR 28320 (May 16, 2006). The aerosol spray paints (aerosol coatings) category currently is listed for regulation as part of Group III of the CAA section 183(e) list.

CAA section 183(e) directs EPA to regulate Consumer and Commercial Products using ''best available controls'' (BAC). CAA section 183(e)(1)(A) defines BAC as ''the degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.'' CAA section 183(e) also provides EPA with authority to use any system or systems of regulation that EPA determines is the most appropriate for the product category. Under CAA section 183(e)(4), EPA can impose ''any system or systems of regulation as the Administrator deems appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or economic incentives (including marketable permits and auctions of emissions rights) concerning the manufacture, processing, distribution, use, consumption or disposal of the product.'' Under these provisions, EPA has previously issued national regulations for architectural coatings, autobody refinishing coatings, consumer products, and portable fuel containers.[1, 2, 3, 4, 5]

For any category of consumer or commercial products, the Administrator may issue control techniques guidelines (CTGs) in lieu of national regulations if the Administrator determines that such guidance will be substantially as effective as regulations in reducing emissions of volatile organic compounds which contribute to ozone levels in areas which violate the national ambient air quality standard for ozone. In many cases, CTGs can be effective regulatory approaches to reduce emissions of VOC in nonattainment areas because of the nature of the specific product and the uses of such product. A critical distinction between a national rule and a CTG is that a CTG may include provisions that affect the users of the products. For other product categories, such as wood furniture coatings and shipbuilding coatings, EPA has previously determined that, under CAA section 183(e)(3)(C), a CTG would be substantially as effective as a national rule and, therefore, issued CTGs to provide guidance to States for development of appropriate State regulations.

For the category of aerosol coatings, EPA has determined that a national rule applicable nationwide is the best system of regulation to achieve necessary VOC emission reductions from this type of product. Aerosol coatings are typically used in relatively small amounts by consumers and others on an occasional basis and at varying times and locations. Under such circumstances, reformulation of the VOC content of the products is a more feasible way to achieve VOC emission reductions, rather than through a CTG approach that would only affect a smaller number of relatively large users. Aerosol coatings regulations are already in place in three States (California, Oregon, and Washington), and other States are considering developing regulations for these products. For the companies that market aerosol coatings in different States, trying to fulfill the differing requirements of State rules may create administrative, technical, and marketing problems. A Federal rule is expected to provide some degree of consistency, predictability, and administrative ease for the industry. A national rule also helps States reduce compliance problems associated with noncompliant coatings being transported into nonattainment areas from neighboring areas and neighboring States. A national rule will also enable States to obtain needed VOC emission reductions from this sector in the near term, without having to expend their limited resources to develop similar rules in each State.[6]

C. What Is Photochemical Reactivity?

There are thousands of individual species of VOC chemicals that can participate in a series of reactions involving nitrogen oxides (NO_X) and the energy from sunlight, resulting in the formation of ozone. The impact of a given species of VOC on formation of ground-level ozone is sometimes referred to as its ''reactivity.'' It is generally understood that not all VOC are equal in their effects on ground-level ozone formation. Some VOC react extremely slowly and changes in their emissions have limited effects on ozone pollution episodes. Some VOC form ozone more quickly than other VOCs, or they may form more ozone than other

[1] National Volatile Organic Compound Emission Standards for Architectural Coatings'' 63 FR 48848, (September 11, 1998).

[2] ''National Volatile Organic Compound Emission Standards for Automobile Refinish Coatings'' 63 FR 48806, (September 11, 1998).

[3] ''Consumer and Commercial Products: Schedule for Regulation'' 63 FR 48792, (September 11, 1998).

[4] ''National Volatile Organic Compound Emission Standards for Consumer Products'' 63 FR 48819, (September 11, 1998).

[5] ''National Volatile Organic Compound Emission Standards for Portable Fuel Containers'' 72 FR 8428, (February 26, 2007).

[6] *ALARM Caucus* v. *EPA*, 215 F.3d 61,76 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 1018 (2001).

VOC. Other VOC not only form ozone themselves, but also act as catalysts and enhance ozone formation from other VOC. By distinguishing between more reactive and less reactive VOC, however, EPA believes that it may be possible to develop regulations that will decrease ozone concentrations further or more efficiently than by controlling all VOC equally.

Assigning a value to the reactivity of a specific VOC species is a complex undertaking. Reactivity is not simply a property of the compound itself; it is a property of both the compound and the environment in which the compound is found. Therefore, the reactivity of a specific VOC varies with VOC:NO_X ratios, meteorological conditions, the mix of other VOC in the atmosphere, and the time interval of interest. Designing an effective regulation that takes account of these interactions is difficult. Implementing and enforcing such a regulation requires an extra burden for both industry and regulators, as those impacted by the rule must characterize and track the full chemical composition of VOC emissions rather than only having to track total VOC content as is required by traditional mass-based rules. EPA's September 13, 2005 final rule [7] to approve a comparable reactivity-based aerosol coating rule as part of the California State Implementation Plan for ozone contains additional background information on photochemical reactivity. Recently, EPA issued interim guidance to States regarding the use of VOC reactivity information in the development of ozone control measures.[8]

1. What Research Has Been Conducted in Reactivity?

Much of the initial work on reactivity scales was funded by the California Air Resources Board (CARB), which was interested in comparing the reactivity of emissions from different alternative fueled vehicles. In the late 1980s, CARB provided funding to William P. L. Carter at the University of California to develop a reactivity scale. Carter investigated 18 different methods of ranking the reactivity of individual VOC in the atmosphere using a single-cell trajectory model with a state-of-the-art chemical reaction mechanism.[9] Carter suggested three scales for further consideration:

i. Maximum Incremental Reactivity (MIR) scale-an ozone yield scale derived by adjusting the NO_X emissions in a base case to yield the highest incremental reactivity of the base reactive organic gas mixture.

ii. Maximum Ozone Incremental Reactivity (MOIR) scale-an ozone yield scale derived by adjusting the NO_X emission in a base case to yield the highest peak ozone concentration.

iii. Equal Benefit Incremental Reactivity (EBIR) scale-an ozone yield scale derived by adjusting the NO_X emissions in a base case scenario so VOC and NO_X reductions are equally effective in reducing ozone.

Carter concluded that, if only one scale is used for regulatory purposes, the maximum incremental reactivity (MIR) scale is the most appropriate.[10] The MIR scale is defined in terms of environmental conditions where ozone production is most sensitive to changes in hydrocarbon emissions and, therefore, represents conditions where hydrocarbon controls would be the most effective. CARB therefore used the MIR scale to establish fuel-neutral VOC emissions limits in its low-emitting vehicle and alternative fuels regulation.[11, 12] Subsequently, Carter has updated the MIR scale several times as the chemical mechanisms in the model used to derive the scale have evolved with new scientific information. CARB incorporated a 1999 version of the MIR scale in its own aerosol coatings rule. The latest revision to the MIR scale was issued in 2003.

In addition to Carter's work, there have been other attempts to create reactivity scales. One such effort is the work of R.G. Derwent and coworkers, who have published articles on a scale called the photochemical ozone creation potential (POCP) scale.[13, 14] This scale was designed for the emissions and meteorological conditions prevalent in Europe. The POCP scale is generally consistent with that of Carter, although there are some differences because it uses a different model, chemical mechanism, and emission and meteorological scenarios. Despite these differences, there is a good correlation of r^2=0.9 between the results of the POCP and the MIR scales[12].

As CARB worked to develop reactivity-based regulations in California, EPA began to explore the implications of applying reactivity scales in other parts of the country. In developing its regulations, CARB has maintained that the MIR scale is the most appropriate metric for application in California, but cautions that its research has focused on California atmospheric conditions and that the suitability of the MIR scale for regulatory purposes in other areas has not been demonstrated. In particular, specific concerns have been raised about the suitability of using the MIR scale in relation to multi-day stagnation or transport scenarios or over geographic regions with very different VOC:NO_X ratios than those of California.

In 1998, EPA participated in the formation of the Reactivity Research Working Group (RRWG), which was organized to help develop an improved scientific basis for reactivity-related regulatory policies.[15] All interested parties were invited to participate. Since that time, representatives from EPA, CARB, Environment Canada, States, academia, and industry have met in public RRWG meetings to discuss and coordinate research that would support this goal.

The RRWG has organized a series of research efforts to explore:

i. The sensitivity of ozone to VOC mass reductions and changes in VOC composition under a variety of environmental conditions;

ii. The derivation and evaluation of reactivity scales using photochemical airshed models under a variety of environmental conditions;

iii. The development of emissions inventory processing tools for exploring reactivity-based strategies; and

iv. The fate of VOC emissions and their availability for atmospheric reactions.

This research has led to a number of findings that increase our confidence in

[7] ''Revisions to the California State Implementation Plan and Revision to the Definition of Volatile Organic Compounds (VOC)–Removal of VOC Exemptions for California's Aerosol Coating Products Reactivity-based Regulation'' 70 FR 53930, (September 13, 2005).

[8] ''Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans'') 70 FR 54046, (September 13, 2005).

[9] Carter, W. P. L. (1994) ''Development of ozone reactivity scales for organic gases,'' J. Air Waste Manage. Assoc., 44: 881–899.

[10] ''Initial Statement of Reasons for the California Aerosol Coatings Regulation, California Air Resources Board,'' 2000.

[11] California Air Resources Board ''Proposed Regulations for Low-Emission Vehicles and Clean Fuels—Staff Report and Technical Support Document,'' State of California, Air Resources Board, P.O. Box 2815, Sacramento, CA 95812, August 13, 1990.

[12] California Air Resources Board ''Proposed Regulations for Low-Emission Vehicles and Clean Fuels—Final Statement of Reasons,'' State of California, Air Resources Board, July 1991.

[13] Derwent, R.G., M.E. Jenkin, S.M. Saunders and M.J. Pilling (2001) ''Characterization of the Reactivities of Volatile Organic Compounds Using a Master Chemical Mechanism,'' J. Air Waste Management Assoc., 51: 699–707.

[14] Derwent, R.G., M.E. Jenkin, S.M. Saunders and M.J. Pilling (1998) ''Photochemical Ozone Creation Potentials for Organic Compounds in Northwest Europe Calculated with a Master Chemical Mechanism,'' Atmos. Env., 32(14/15):2429–2441.

[15] See *http://www.narsto.org/section.src?SID=10.*

the ability to develop regulatory approaches that differentiate between specific VOC on the basis of relative reactivity. The first two research objectives listed above were explored in a series of three parallel modeling studies that resulted in four reports and one journal article.[16, 17, 18, 19, 20] EPA commissioned a review of these reports to address a series of policy-relevant science questions.[21] In 2007, an additional peer review was commissioned by EPA to assess the appropriateness of basing a national aerosol coatings regulation on reactivity. Generally, the peer reviews support the appropriateness of the use of the box-model based MIR metric nationwide for the aerosol coatings category. The results are available in the rulemaking docket.

The results of the RRWG-organized study and the subsequent reviews suggest that there is good correlation between different relative reactivity metrics calculated with photochemical airshed models, regardless of the choice of model, model domain, scenario, or averaging times. Moreover, the scales calculated with photochemical airshed models correlate relatively well with the MIR metric derived with a single cell, one-dimensional box model. Prior to the RRWG-organized studies, little analysis of the robustness of the box-model derived MIR metric and its applicability to environmental conditions outside California had been conducted. Although these studies were not specifically designed to test the robustness of the box-model derived MIR metrics, the results suggest that the MIR metric is relatively robust.

[16] Carter, W.P.L., G. Tonnesen, and G. Yarwood (2003) Investigation of VOC Reactivity Effects Using Existing Regional Air Quality Models, Report to American Chemistry Council, Contract SC–20.0–UCR–VOC–RRWG, April 17, 2003.

[17] Hakami, A., M.S. Bergin, and A.G. Russell (2003) Assessment of the Ozone and Aerosol Formation Potentials (Reactivities) of Organic Compounds over the Eastern United States, Final Report, Prepared for California Air Resources Board, Contract No. 00–339, January 2003.

[18] Hakami, A., M.S. Bergin, and A.G. Russell (2004a) Ozone Formation Potential of Organic Compounds in the Eastern United States: A Comparison of Episodes, Inventories, and Domains, Environ. Sci. Technol. 2004, 38, 6748–6759.

[19] Hakami, A., M. Arhami, and A.G. Russell (2004b) Further Analysis of VOC Reactivity Metrics and Scales, Final Report to the U.S. EPA, Contract #4D–5751–NAEX, July 2004.

[20] Arunachalam S., R. Mathur, A. Holland, M.R. Lee, D. Olerud, Jr., and H. Jeffries (2003) Investigation of VOC Reactivity Assessment with Comprehensive Air Quality Modeling, Prepared for U.S. EPA, GSA Contract # GS–35F–0067K, Task Order ID: 4TCG68022755, June 2003.

[21] Derwent, R.G. (2004) Evaluation and Characterization of Reactivity Metrics, Final Draft, Report to the U.S. EPA, Order No. 4D–5844–NATX, November 2004.

D. Role of Reactivity in VOC/Ozone Regulations

Historically, EPA's general approach to regulation of VOC emissions has been based upon control of total VOC by mass, without distinguishing between individual species of VOC. EPA considered the regulation of VOC by mass to be the most effective and practical approach based upon the scientific and technical information available when EPA developed its VOC control policy.

EPA issued the first version of its VOC control policy in 1971, as part of EPA's State Implementation Plan (SIP) preparation guidance.[22] In that guidance, EPA emphasized the need to reduce the total mass of VOC emissions, but also suggested that substitution of one compound for another might be useful when it would result in a clearly evident decrease in reactivity and thus tend to reduce photochemical oxidant formation. This latter statement encouraged States to promulgate SIPs with VOC emission substitution provisions similar to the Los Angeles County Air Pollution Control District's (LACAPCD) Rule 66, which allowed some VOC that were believed to have low to moderate reactivity to be exempted from control. The exempt status of many of those VOC was questioned a few years later, when research results indicated that, although some of those compounds do not produce much ozone close to the source, they may produce significant amounts of ozone after they are transported downwind from urban areas.

In 1977, further research led EPA to issue a revised VOC policy under the title ''Recommended Policy on Control of Volatile Organic Compounds,'' (42 FR 35314, July 8, 1977), offering its own, more limited list of exempt organic compounds. The 1977 policy identified four compounds that have very low photochemical reactivity and determined that their contribution to ozone formation and accumulation could be considered negligible. The policy exempted these ''negligibly reactive'' compounds from VOC emissions limitations in programs designed to meet the ozone NAAQS. Since 1977, the EPA has added other compounds to the list of negligibly reactive compounds based on new information as it has been developed. In 1992, the EPA adopted a formal regulatory definition of VOC for use in SIP, which explicitly excludes compounds that have been identified as negligibly reactive (40 CFR 51.100(s)).

To date, EPA has exempted 54 compounds or classes of compounds in this manner. In effect, EPA's current VOC exemption policy has generally resulted in a two bin system in which most compounds are treated equally as VOC and are controlled and a separate smaller group of compounds are treated as negligibly reactive and are exempt from VOC control.[23] This approach was intended to encourage the reduction of emissions of all VOC that participate in ozone formation. From one perspective, it appears that this approach has been relatively successful. EPA estimates that, between 1970 and 2003, VOC emissions from man-made sources nationwide declined by 54 percent. This decline in VOC emissions has helped to decrease average ozone concentration by 29 percent (based on 1-hour averages) and 21 percent (based on 8-hour averages) between 1980 and 2003. These reductions occurred even though, between 1970 and 2003, population, vehicle miles traveled, and gross domestic product rose 39 percent, 155 percent and 176 percent respectively.[24]

On the other hand, some have argued that a reactivity-based approach for reducing VOC emissions would be more effective than the current mass-based approach. One group of researchers conducted a detailed modeling study of the Los Angeles area and concluded that, compared to the current approach, a reactivity-based approach could achieve the same reductions in ozone concentrations at significantly less cost or, for a given cost, could achieve a significantly greater reduction in ozone concentrations.[25] Although the traditional approach to VOC control focused on reducing the overall mass of emissions may be adequate in some areas of the country, EPA's recent guidance on control of VOC in ozone SIPs recognizes that approaches to VOC control that differentiate between VOC

[22] ''Requirements for Preparation, Adoption and Submittal of Implementation Plans'', Appendix B, 36 FR 15495, (August 14, 1971).

[23] For some analytical purposes, EPA has distinguished between VOC and ''highly reactive'' VOC, such as in the Agency's initial evaluation of consumer products for regulation. *See*, ''Final Listing,'' 63 FR 48792, 48795–6 (Sept. 11, 1998) (explaining EPA's approach); *see also*, *ALARM Caucus* v. *EPA*, 215 F. 3d 61, 69—73 (D.C. Cir. 2000), *cert. denied*, 532 U.S. 1018 (2001) (approving EPA's approach as meeting the requirements of CAA section 183(e)).

[24] ''Latest Findings on National Air Quality: 2002 Status and Trends,'' EPA 454/K–03–001, (August 2003); and ''The Ozone Report Measuring Progress through 2003,'' EPA 454/K–04–001, (April 2004); Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina.

[25] A. Russell, J. Milford, M. S. Bergin, S. McBride, L. McNair, Y. Yang, W. R. Stockwell, B. Croes, ''Urban Ozone Control and Atmospheric Reactivity of Organic Gases,'' Science, 269: 491–495, (1995).

based on relative reactivity are likely to be more effective and efficient under certain circumstances.[26] In particular, reactivity-based approaches are likely to be important in areas for which aggressive VOC control is a key strategy for reducing ozone concentrations. Such areas include:

- Areas with persistent ozone nonattainment problems;
- Urbanized or other NO_X-rich areas where ozone formation is particularly sensitive to changes in VOC emissions;
- Areas that have already implemented VOC RACT measures and need additional VOC emission reductions.

In these areas, there are a variety of possible ways of addressing VOC reactivity in the SIP development process, including:

- Developing accurate, speciated VOC emissions inventories.
- Prioritizing control measures using reactivity metrics.
- Targeting emissions of highly-reactive VOC compounds with specific control measures.
- Encouraging VOC substitution and composition changes using reactivity-weighted emission limits.

The CARB aerosol coatings rule is an example of this last application of the concept of reactivity. CARB's reactivity-based rule encouraged the use of compounds that were less effective at producing ozone. It contained limits for aerosol coatings expressed as grams of ozone formed per gram of product instead of the more traditional limits expressed as percent VOC. EPA approved CARB's aerosol coatings rule as part of the California SIP for ozone. EPA's national aerosol coatings rule builds largely upon CARB's efforts to regulate this product category based upon relative reactivity.

E. The Aerosol Coating Industry

Aerosol coatings include all coatings that are specially formulated and packaged for use in pressurized cans. They are used by both professional and by do-it-yourself (DIY) consumers. The DIY segment accounts for approximately 80 percent of all sales. The remainder of aerosol coatings is sold for industrial maintenance and original equipment manufacturer use. Aerosol coatings are used for a number of applications including small domestic coating jobs, field and construction site marking, and touch-up of marks and scratches in paintwork of automobiles, appliances and machinery.

[26] ''Interim Guidance on Control of Volatile Organic Compounds in Ozone State Implementation Plans,'' 70 FR 54046, September 13, 2005).

The aerosol coatings industry includes the formulators and manufacturers of the concentrated product. These manufacturers may package the product or they may use toll fillers (processors). These toll fillers may work not only with the large manufacturers, but for other coating manufacturers who do not have the specialized equipment to fill aerosol containers. The fillers may then supply the product to coating dealers, home supply stores, distributors, company-owned stores, and industrial customers.

An aerosol consists of a gas in which liquid or solid substances may be dispensed. Aerosol coatings are pressurized coatings that, like other coatings, consist of pigments and resins and solvents. However, aerosol coatings also contain a propellant that dispenses the product ingredients. A controlled amount of propellant in the product vaporizes as it leaves the container, creating the aerosol spray. The combination of product and propellant is finely tuned to produce the correct concentration and spray pattern for an effective product.

Aerosol coatings can be packaged in disposable cans for hand-held applications or for use in specialized equipment in ground traffic/marking applications. As with other coatings, aerosol coatings are available in both solvent-based and water-based formulations.

In developing the proposed national rule for aerosol coatings, EPA is using the same coating categories, and the same definitions for those categories, previously identified by CARB in its comparable regulation for aerosol coatings. We believe these categories adequately categorize the industry and encompass the range of products included in our own analysis of this category that we conducted in preparing the Report to Congress (EPA–453/R–94–066–A). Use of the same definitions and categories has the added benefit of providing regulated entities with consistency between the CARB and national rules. The categories we propose include six general categories and 30 specialty categories. Based on a survey of aerosol coating manufacturers conducted by CARB in 1997, VOC emissions from the six general categories together with the specialty category of Ground Traffic/Marking Coatings account for approximately 85 percent of the ozone formed as a result of the use of aerosol coatings. These categories are defined in this proposed regulation and are described in more detail in the docket to this rulemaking.

There are currently no national regulations addressing VOC emissions from aerosol coatings. California, Oregon and Washington are the only States that currently regulate aerosol coating products and Oregon's and Washington's rules are identical to the Tier 1 VOC mass-based limits developed by CARB that became effective in 1996. Unlike other EPA or State regulations and previous CARB regulations for aerosol coatings that regulate VOC ingredients by mass in the traditional approach, the current California regulation for aerosol coatings is designed to limit the ozone formed from VOC emissions from aerosol coatings by establishing limits on the reactivity of the cumulative VOC ingredients of such coatings. A more thorough discussion of the reactivity approach and the proposed reactivity limits are presented later in this preamble (section IV.D).

II. Summary of Proposed Standards

A. Applicability of the Standards and Regulated Entities

The proposed Aerosol Coatings Reactivity Rule (ACRR) will apply to manufacturers, processors, wholesale distributors, or importers of aerosol coatings used by both the general population (i.e., the ''Do It Yourself'' market) and industrial applications (e.g., at original equipment manufacturers and other industrial sites). This regulation will also apply to distributors if those distributors are responsible for any of the labeling of the aerosol products. The proposed rule includes an exemption from the limits in Table 1 of subpart E of the rule for those manufacturers that manufacture very limited amounts of aerosol coatings, i.e., products with a total VOC content by mass of no more than 7,500 kilograms of VOC per year in the aggregate for all products. EPA notes that an exemption under EPA's national rule for aerosol coatings under section 183(e) does not alter any requirements under any applicable State or local regulations.

B. Regulated Pollutant

The regulated pollutants under this proposed regulation are VOC, as that term is defined in 40 CFR 51.100(s). However, the listed exempt compounds that are normally excluded from the definition of VOC in 40 CFR 51.100(s)(1) will be regulated as VOC for purposes of this regulation. Because all of these compounds contribute to ozone formation, we are proposing to amend the regulatory definition of VOC for purposes of this rule. While the regulated pollutants will be VOCs, the emission limits in the standard will be expressed in terms of weight of ozone generated from the VOC ingredients per

weight of coating material, rather than the traditional weight of VOC ingredients per weight or volume of product. We believe that this approach will allow us to reduce the overall amount of ozone that results from the VOCs emitted to the atmosphere from these products, while providing manufacturers with the flexibility to select VOC ingredients for their products. This approach provides incentives to manufacturers to reformulate their products using VOC ingredients that will likely result in less ozone production.

C. Regulatory Limits

The proposed regulatory limits for the ACRR are a series of reactivity limits for six general coating categories and 30 subcategories of specialty coatings. These reactivity limits are expressed in terms of mass of ozone generation per gram of product. In addition to compliance with the reactivity limits, a regulated entity is also required to comply with labeling, recordkeeping, and reporting requirements.

D. Compliance Requirements

The proposed rule requires all regulated entities to comply by January 1, 2009. The proposed rule includes a provision that allows regulated entities that have not previously manufactured, imported, or distributed for sale or distribution in California any product that complies with applicable California regulations for aerosol coatings to seek an extension of the compliance date until January 1, 2011.

After the compliance date, the regulated entity under this proposed rule will be required to conduct initial compliance demonstration calculations for all coating formulations manufactured or filled at each of their facilities. These calculations must be maintained on-site for 5 years after the product is manufactured, processed, distributed, or imported, and must be submitted to the Agency upon request. The regulated entity may use formulation data to make the compliance calculations; however, EPA is proposing to adopt California's Method 310 as the underlying test method (i.e., formulation data should be verifiable with CARB 310, if requested). Facilities will also be allowed to use EPA's Test Method 311.

E. Labeling Requirements

The proposed rule also includes labeling requirements to facilitate implementation and enforcement of the limits. Labels must clearly identify the product category or the category code provided in Table 1 of the regulation, the limit for that category, and the product date code. If the date code is not easily discernable, an explanation of the code would need to be included in the initial notification discussed below.

F. Recordkeeping and Reporting

The proposed rule includes a requirement for an initial notification report from all regulated entities to EPA 90 days before the compliance date. This report will provide basic information about the regulated entity and will identify all manufacturers, processors, wholesale distributors, or importers of aerosol coatings. In addition, this report will need to explain the date code system used to label products and it must include a statement certifying that all of the company's products will be in compliance with the limits by the compliance date.

The regulated entity is required to maintain compliance calculations for each of its aerosol coatings formulations. For each batch of a particular formulation, the regulated entity must maintain records of the date(s) the batch was manufactured, the volume of the batch, and the VOC formula for the formulation. Records of these calculations must be maintained 5 years after the product is manufactured, processed, distributed for wholesale, or imported for sale or distribution in interstate commerce in the United States.

The proposed rule does not include any regular, ongoing reporting requirements for most regulated entities. Reporting after the initial compliance report is only required when a manufacturer adds a new coating category. When this happens, a new notification is required. However, the EPA also invites public comment on the feasibility and need for additional reporting requirements.

The proposed rule requires those small manufactures that qualify for exemption from the limits of Table 1 of subpart E of the rule to make an annual report to EPA providing necessary information and documentation to establish that the products made by the entity should be exempt.

G. Variance

The proposed rule allows regulated entities to submit a written application to the Agency requesting a temporary variance if, for reasons beyond their reasonable control, they cannot comply with the requirements of the rule. An approved variance order would specify a final compliance date and a condition that imposes increments of progress necessary to assure timely compliance. A variance would end immediately if the regulated entity failed to comply with any term or condition of the variance. The Administrator will provide special consideration to variance requests from regulated entities, particularly small businesses that have not marketed their products in areas subject to State regulations for these products prior to this rulemaking. EPA notes that a variance under EPA's national rule for aerosol coatings under section 183(e) does not alter any requirements under any applicable state or local regulations.

H. Test Methods

Although regulated entities may use formulation data to demonstrate compliance with the reactivity limits, EPA believes it is also necessary to have test methods in place that can be used to verify the accuracy of the formulation data. Therefore, we have included two test methods that can be used by regulated entities or the Administrator to determine compliance with the reactivity limits. In those cases where the formulation data and test data are not in agreement, data collected using the approved test methods will prevail. Regulated entities or regulatory agencies may use either CARB Method 310—Determination of Volatile Organic Compounds in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products or EPA Method 311—Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings to determine the reactive organic compound content of an aerosol coating. CARB Method 310 includes some test procedures that are not required to determine the VOC content of aerosol coatings; for example, Method 310 incorporates EPA Method 24 for determining the VOC content of a coating. We have identified those sections of Method 310 that are not required for compliance demonstration purposes in the regulation. EPA Method 311 was originally developed for liquid coatings; so, it does not include provisions for the collection of the propellant portion of an aerosol coating. Therefore, those choosing to use Method 311 must separate the aerosol propellant from the coating using either ASTM D3063–94 or ASTM D 3074–94.

III. Summary of Impacts

This section presents a summary of the impacts expected as a result of this proposed rule. To ensure that the impacts are not minimized, we followed an approach that would provide conservative estimates for each impact. For environmental impacts, we ensured that our estimated positive impact (i.e.,

emission reduction) was not overstated (i.e., conservatively low). For cost and economic impacts, we ensured that our estimated impacts were not understated (i.e., conservatively high). This approach ensures that conclusions drawn on the overall impact on facilities, including small businesses, are based on conservative assumptions.

A. Environmental Impacts

In accordance with section 183(e), EPA has evaluated what regulatory approach would constitute ''best available controls'' for this product category, taking into account the considerations noted in the statute. EPA has evaluated the incremental increase or decrease in air pollution, water pollution, and solid waste reduction that would result from implementing the proposed standards.

1. Air Pollution Impacts

The proposed rule will reduce both VOC emissions and the amount of ozone generated from the use of aerosol coatings. Because most States will use the VOC emission reductions resulting from this rule in their ozone SIP planning, we have calculated the reductions associated with the rule in terms of mass VOC emissions and we will refer to a reduction in mass VOC emissions when discussing the impacts of the proposed regulation. EPA believes this is appropriate because the reactivity limits were designed to ensure that the ozone reductions that would be achieved by the limits were equivalent to the mass VOC reductions that would have been achieved by the CARB 2002 mass-based VOC limits. However, because the limits actually reduce the amount of ozone generated from the VOC used in aerosol coatings rather than VOC content by mass, the VOC reductions that we refer to are more accurately described as an ''equivalent reduction in VOC emissions.'' We will use the term ''reduction'' in subsequent discussions. Additional information on the method used to calculate the air impacts of the proposed rule are included in the impacts calculation memo contained in the docket to this rulemaking.

As proposed, EPA believes that this rule would reduce nationwide emissions of VOC from the use of aerosol coatings by an estimated 15,570 Mg (17,130 tons) from the 1990 baseline. This represents a 19.4 percent reduction from the 1990 baseline of 80,270 Mg (88,300 tons) of VOC emissions from the product category. While we believe that the above numbers accurately assess the impacts of the proposed rule for SIP credit purposes, we recognize that significant reductions have already occurred as the result of the implementation of the CARB aerosol coatings regulations. Because many manufacturers sell ''CARB compliant'' coatings across the country, some of these VOC emission reductions have already been achieved outside of California. We estimate that approximately 18 percent of the total products sold are not compliant with EPA's proposed limits. Therefore, we estimate that this rule will result in additional VOC reductions equivalent to 3,100 tons per year (i.e., 18 percent of 17,130). We request comment on our estimate of the products that are not compliant with these limits specifically, and on our evaluation of the potential VOC emission reductions generally.

The 18 percent reduction in VOC emissions represents new reductions. However, for ozone SIP purposes, we plan to give States that do not currently have aerosol coating regulations in place full credit for the 19.4 percent reduction from the 1990 baseline. This 19.4 percent reduction is equivalent to a 0.114 pound of VOC reduction per capita.

Although we have not quantified the anticipated impacts of this rule on HAP emissions, EPA expects that the proposed rule would reduce emissions of toluene and xylene, two highly reactive toxic compounds. Toluene and xylene are hazardous air pollutants that manufacturers have historically used extensively in some aerosol coating formulations. However, both of these compounds are also highly reactive VOCs. Therefore, it will be difficult for regulated entities to continue to use these compounds in significant concentrations and still meet the reactivity limits in the proposed rule. EPA believes that the proposed rule based upon VOC reactivity, rather than VOC mass, will provide a significant incentive for manufacturers to cease or reduce use of toluene and xylene in their products.

Due to the reduction in equivalent VOC emissions and ozone formation and the anticipated reduction in hazardous air pollutant emissions, we believe the rule will improve human health and the environment.

2. Water and Solid Waste Impacts

There are no adverse solid waste impacts anticipated from the compliance with this rule. Because companies can continue to sell and distribute coatings that do not meet the reactivity limits after the compliance date as long as those coatings were manufactured before the compliance date the industry does not have to dispose of aerosol cans containing noncompliant product, which would result in an increase in solid waste. It is possible that the proposed rule will actually result in a reduction in solid waste as more concentrated higher solids coatings may be used as an option for meeting the proposed limits. This will result in fewer containers requiring disposal when the same volume of solids is applied by product users.

There are no anticipated adverse water impacts from this rulemaking.

B. Energy Impacts

There are no adverse energy impacts anticipated from compliance with this proposed rule. EPA believes that regulated entities will comply through product reformulation which will not significantly alter energy impacts. The proposed rule does not include add-on controls or other measures that would add to energy usage or other impacts.

C. Cost and Economic Impacts

There are four types of facilities that will be impacted by the proposed rule. These include the aerosol coating manufacturers, aerosol coating processors, and aerosol coating wholesale distributors, and importers of aerosol coatings. For some products, the manufacturer is also the filler and distributor, while for other products the manufacturing process, the filling process, and the distribution may be done by three separate companies. The primary focus of our cost and economic analysis is the aerosol coating manufacturers as we anticipate that the costs to the fillers, distributors, or importers will be minimal.

For the aerosol coating manufacturer, we evaluated three components in determining the total cost of the proposed rule. These three components include the cost of the raw materials that the manufacturer will use to formulate coatings that comply with the proposed rule, the cost of research and development efforts that will be necessary to develop compliant formulations, and the cost of the recordkeeping and reporting requirements associated with the proposed rule. Because we have limited information on aerosol coating sales for the aerosol coating manufacturers that we have identified, we evaluated each of these costs on a per can basis for each of the 36 coating categories. A brief discussion of each of these cost components is presented below. A more detailed discussion of the cost analysis is presented in the cost analysis memorandum that is included in the docket.

The proposed rule is based on reactivity limits established for six general coating categories and 30 specialty coating categories. To meet the limits, aerosol coating manufacturers may have to reformulate their existing coatings with different solvents and propellants, or at least different combinations of those compounds. The difference in the cost of the solvents and propellants used for formulating the complying coatings and those used for formulating the noncomplying coatings is the basis for the raw material costs.

To determine the raw material costs, we used data compiled by CARB from its 1997 survey of the aerosol coatings industry. Using the data from the survey, CARB developed a typical formulation for a complying coating for each category and a typical formulation for a noncomplying coating for each category. We then compared the cost of the materials used in each formulation to determine the raw material costs per can for each category. The raw material costs per can ranged from a cost savings of $0.04/can, that is, the cost of the raw materials used in the complying coating was less than the cost of the raw materials used in the noncomplying coating, to a cost increase of $0.12/can.

Aerosol coating manufacturers not only have to develop formulations that meet the reactivity limits in the proposed rule, but they also must ensure that the reformulated coatings have the same performance characteristics and the coatings that they will replace. We anticipate that this may require manufacturers to invest resources in research and development efforts. For the purposes of this analysis, we assumed that each aerosol coating manufacturer would have to hire one additional chemist to assist in reformulation efforts.

Using a list of aerosol coating manufacturers and the categories of coatings they manufactured that was developed by CARB using its 1997 survey data, we assigned chemists to each coating category based on the number of companies manufacturing coatings in that category. Because most companies manufacture coatings in more than one category, we assigned the chemists for each company based on the number of categories they manufactured. For example, if a company manufactured products in two categories, we assigned 0.5 chemists to that category. We then totaled the number of chemists required for each category.

Using data from the American Chemical Society on chemist salaries and the number of chemists for each category, we then developed annualized research and development costs for each category. The annualized costs were based on a period of 10 years and an interest rate of 7 percent. These annualized research and development costs for each category were then divided by the number of aerosol cans manufactured in each category to determine the total research and development costs per can for each coating category. Research and development costs ranged from $0.00/can to $0.109/can.

Aerosol coating manufacturers will also have costs associated with the recordkeeping and reporting requirements in the proposed rule. These costs include the time required for such activities as reading and understanding the reporting requirements of the rule, reviewing the compliance calculations required under the rule and implementing an approach for performing those calculations, and preparing the initial compliance report. Because the reactivity approach is new to coating manufacturers, we assumed that a supervisor would be performing each of these tasks. We estimated the total cost for recordkeeping and reporting for the industry at $670,140 per year which equates to $0.002/can.

The total cost per can for raw materials, research and development, and recordkeeping and reporting requirements ranges from $0.002 to $0.141. Based on data from the U.S. Census Bureau on the volume of aerosol paint concentrates produced for packaging in aerosol coatings and information provided by the National Paint and Coatings Association (NPCA) on the amount of concentrate in a can, we estimated that 329,536,000 10.5 ounce cans were produced in 2005. If all of these cans required reformulation, the total nationwide cost of the proposed rule would be $20,360,521. However, we know that significant progress has already been made in reformulating aerosol coatings to meet the proposed limits. Even before CARB's regulation became effective, its survey data showed that for 10 coating categories, 100 percent of the coatings were complying with the proposed limits in 1997. For the remaining categories, all but two had complying market shares greater than 20 percent in 1997. With CARB's regulation in place, we anticipate that the number of coatings already meeting the proposed limits has increased significantly.

As discussed earlier, we do not think that fillers and distributors will incur additional costs from the proposed rule. The filler would incur additional costs only if the proposed rule would require them to invest in new equipment and we do not anticipate that this will be the case. The mix of propellants and solvents used by the manufacturer is expected to change, but the changes will not be so significant that the fillers will be unable to continue to use their existing equipment. The only potential costs to the distributor are the labeling requirements and any costs associated with not being able to sell noncompliant coatings. However, the proposed rule does not require the information to be included on the paper label and most manufacturers are meeting the labeling requirements associated with CARB's regulation by using an ink stamp on the bottom of the can. Therefore, the labeling requirements are not expected to have a cost impact on the distributor. The proposed rule also allows distributors to continue to sell products that were manufactured before the compliance date as long as necessary so they will have no lost revenue from the noncompliant coatings.

IV. Rationale

A. Applicability

CAA section 183(e)(1)(C) of the CAA defines ''regulated entities'' as:

> (i) Manufacturers, processors, wholesale distributors, or importers of consumer or commercial products for sale or distribution in interstate commerce in the United States; or
>
> (ii) manufacturers, processors, wholesale distributors, or importers that supply the entities listed under clause(i) with such products for sale or distribution in interstate commerce in the United States.

The proposed ACRR will regulate manufacturers, processors, wholesale distributors, or importers of aerosol coatings. This includes those regulated entities that make aerosol coatings for the DIY market and for the industrial markets. Regulated entities include processors commonly referred to as ''fillers'' that obtain the liquid and propellant portions of the coating separately and fill the aerosol can. In addition, the rule will regulate distributors of aerosol coatings if those facilities have any responsibility for the labeling of the coatings.

We are proposing an exemption from the limits of the rule for those entities that manufacture only a small amount of aerosol coatings. We believe that this exemption will serve to mitigate the impacts of the rule upon small manufacturers for whom compliance with the rule could impose disproportionately high costs through reformulation of products produced only in small volumes. Given this objective, and in order to avoid unnecessary excess VOC emissions that

could be significant in the aggregate, we are proposing that this exemption from the limits would be available only for those manufacturers that have annual production of aerosol coatings products with total VOC content not in excess of 7,500 kg of VOC in all aerosol coating product categories. We emphasize that this to be determined by total VOC content by mass, in all product categories manufactured by the entity. We consider making this distinction based upon total VOC mass, rather than some reactivity-adjusted calculation, necessary both to minimize the analytical impacts upon the entity seeking the exemption from the rule, and to provide for more effective implementation and enforcement of this aspect of the rule.

A manufacturer that qualifies for the exemption must notify EPA of this in the initial notification report required in proposed section 59.511. As a condition for the exemption from the limits, the proposed rule also requires the entity to file an annual report with EPA providing the information necessary to evaluate and to establish that the products manufactured by the entity are properly exempt from the limits of rule. This information is necessary to assure that the entity is in compliance, even if its products do not meet the limits of the rule. EPA notes that an exemption under EPA's national rule for aerosol coatings under section 183(e) does not alter any requirements under any applicable state or local regulations.

We specifically request comment on whether there is a need for an exemption of this type for very small manufacturers. In addition, we request comment on the features of the exemption as we have proposed it. Finally, in order to get better information about the number of manufactures that would potentially use such an exemption, we specifically request that interested commenters indicate whether they would elect to use the exemption from the limits.

The proposed rule requires all regulated entities to comply by January 1, 2009. EPA believes that compliance by this date is readily achievable by most, if not all, regulated entities subject to this rule. However, in the case of regulated entities that have not previously met the limits already imposed by regulation in the State of California, EPA believes that it may be appropriate to provide an extension of the compliance date on a case by case basis. Therefore, the proposed rule includes a provision that will allow regulated entities that have not previously manufactured, imported, or distributed for sale or distribution in California any product in any category listed in Table 1 of this subpart that complies with applicable California regulations for aerosol coatings to seek an extension of the compliance date. Such extensions will be granted at the discretion of the Administrator. The grant or denial of a compliance date extension does not affect the right of the regulated entity to seek a variance under this rule.

B. Regulated Pollutant

Under CAA section 183(e), Congress has directed EPA to issue regulations to reduce VOC emissions from consumer and commercial products. Traditionally, we have regulated the mass of VOC ingredients of the products to attain this end. This regulation will regulate VOC, but will take a different approach. With this regulation, EPA is proposing a rule intended to limit the amount of ozone that is generated by the specific VOC ingredients of the aerosol coating products rather than limit the VOC mass content of the product. This approach will allow EPA to regulate different species of VOC differently, depending on their relative contribution to ozone formation once emitted into the atmosphere. We believe that this approach will achieve reductions in the overall amount of ozone formed by the VOC emitted to the atmosphere from these products, and provide manufacturers with flexibility to formulate products using VOC ingredients. We believe that this approach provides incentives to manufacturers to use VOC ingredients with less reactivity and therefore contribute to less ozone formation.

Under 40 CFR 51.100(s), we have previously excluded compounds from the definition of VOC in recognition of the fact that individual organic compounds differ with respect to their incremental contribution to ozone formation. EPA's approach to VOC exemptions separates organic compounds into reactive and negligibly reactive compounds. The reactivity based approach that EPA uses in the proposed rule, however, recognizes that all such compounds contribute to the formation of ozone. The differences in the amount of ozone that may be formed from a particular VOC are reflected in the reactivity factors assigned to each VOC in Table 2 of the rule. Compounds that EPA previously identified as negligibly reactive have low reactivity factors, while those that are more reactive have higher reactivity factors. The use of reactivity factors makes the distinction between negligibly reactive and reactive compounds unnecessary for the proposed aerosol coatings rule. These previously exempted compounds will continue to be excluded from the Federal definition of VOC for other purposes.

C. Regulatory Approach

Section 183(e) of the CAA directs EPA to issue national regulations to achieve VOC emission reductions from those categories of consumer products that EPA has identified on the list of product categories. As an alternative, EPA is also authorized to issue a CTG in lieu of such a national regulation if the CTG would be substantially as effective as the rule in achieving the necessary VOC emission reductions. We have determined that a national rule is the best approach for this category.

When developing a regulation under CAA section 183(e), EPA has broad discretion to develop the most effective approach to achieve the intended VOC emission reductions from a category of consumer products. Specifically, CAA section 183(e)(4) states:

> (4) Systems of regulation.—The regulations under this subsection may include any system or systems of regulation as the Administrator may deem appropriate, including requirements for registration and labeling, self-monitoring and reporting, prohibitions, limitations, or economic incentives (including marketable permits and auctions of emissions rights) concerning the manufacture, processing, distribution, use, consumption, or disposal of the product.

This proposed regulation includes a combination of reactivity limits, labeling requirements, recordkeeping requirements, and reporting requirements. We have concluded that the only technologically and economically feasible option for reducing the VOC emissions from aerosol coatings and the ozone that is formed as a result of these emissions is to set VOC content limits that will result in reformulation. This conclusion is based on the fact that once a manufacturer uses a VOC as an ingredient in an aerosol coating, it will ultimately be emitted to the atmosphere (i.e., when the product is used). For stationary industrial sources of VOC emissions, EPA has evaluated add-on control devices as a potential option for reducing emissions. Installing such devices to reduce the emissions from an aerosol coating can is neither technologically nor economically feasible. Although EPA could theoretically achieve VOC emission reductions through requirements imposed on product users, CAA section 183(e) only allows the regulation of users through the mechanism of a CTG. EPA has determined that a CTG is not the appropriate mechanism for aerosol

coatings because of the nature of the product category and its users. In developing this regulation, we have, therefore, focused on reformulation options for reducing the amount of ozone formed from VOC emissions from aerosol coating products.

Most EPA and State coating standards include limits in terms of weight of VOC per weight (or volume) of product. However, for reasons discussed below in D.1, we are proposing to regulate this product category based upon the relative reactivity of the VOC ingredients. In addition to these coating limits, the standard includes other regulatory requirements necessary to facilitate effective implementation and enforcement of the coating limits.

D. VOC Regulatory Limits

1. Evolution of Reactivity-Based Requirements

CAA section 183(e) requires EPA to regulate VOC emissions from consumer products for the purpose of reducing ozone. Although EPA has traditionally focused on reducing VOC ingredients by mass in developing regulations under CAA section 183(e), EPA believes that is has authority under that section to devise alternative approaches to reduce VOC emissions from consumer products where appropriate. The statute directs EPA to evaluate what would constitute ''best available controls'' (BAC) for a product category, and we believe that provision authorizes EPA to consider different approaches for different products.

In determining what would be BAC for aerosol coatings, we are proposing a new approach to achieve the goal of the CAA 183(e) program: A reduction in the formation of ozone. As discussed in section I.C. of this preamble, we believe that the scientific understanding of VOC reactivity has progressed sufficiently to support a reactivity-based regulation for the purposes of this product category. As discussed previously, EPA has concluded that the only reasonable approach for limiting ozone formation from aerosol coatings is to impose limits that encourage reformulation to reduce ozone formation. A brief overview of the various types of rulemakings available to use, and the selection of reformulation levels is presented below. The labeling and other requirements are addressed in future sections.

i. Traditional VOC Mass-Based Limits.

In previous national rules developed under section 183(e), EPA has established limits on the VOC content of coatings by mass. For the consumer products rule and the automotive refinishing rule, these limits were based on the weight percent of VOC in the coating. For the architectural and industrial maintenance (AIM) coatings rule, the limits were based on the weight of VOC per volume of coating. To meet traditional VOC content limits, coating manufacturers have several options. For example, increasing the solids content of the coating will result in a lower VOC content per unit of volume or weight. Replacing some of the organic solvent in a coating with water can also decrease the VOC content of the coating. Over the years, EPA has also determined that some compounds are negligibly reactive compared to other VOC; that is, they produce less ozone or produce ozone less quickly than other VOC. We have exempted these compounds from the generally applicable regulatory definition of VOC. To achieve compliance with other CAA section 183(e) regulations, manufacturers can use these exempt compounds in place of other VOCs and thereby reduce the VOC content of their coatings for regulatory purposes.

The approach a manufacturer chooses to use to reduce the VOC content of its coatings varies depending upon many factors including the intended use of the product, the cost of the reformulated product, the performance of the reformulated product, and other environmental impacts of the reformulated product. For each coating in the aerosol coating category, the approach for reducing the VOC content may be different because each category, and even each product within the category, has different performance requirements.

Even though reducing the VOC content of aerosol coatings could have a significant impact on the ozone resulting from emissions of VOC from aerosol coatings, this approach does have limitations. With an aerosol coating, manufacturers are more limited on how high the solids content of the coating compared to coatings applied using spray techniques or brushing. In addition, as the solids content increases, manufacturers are often forced to use more of VOC such as toluene and xylene that are more effective solvents but are also more reactive and hazardous air pollutants. Increasing water content in aerosol coatings can be a problem because water-based coatings take longer to dry, which is a particular concern in humid environments. A coating that takes longer to dry may impact production at an industrial facility where many specialty aerosol coatings are used. Replacing some VOC ingredients with others that are exempt from the regulatory definition of VOC can also have some negative implications. For example, acetone is extremely volatile and may dry too fast for some applications. We are also concerned about the environmental impacts of increasing the use of such solvents as methylene chloride, which although exempt from the definition of VOC is listed as a hazardous air pollutant.

Although potential limitations exist for establishing limits on the VOC content of aerosol coatings, we believe that it is a technologically feasible alternative for reducing the formation of ozone from the use of aerosol coatings. It is an approach we have used in many regulatory programs, including 183(e). Our evaluation of BAC options for aerosol coatings includes two options for limiting the VOC content of coatings.

ii. Reactivity-Based Limits.

EPA recognizes that individual VOC can react differently in the atmosphere and can vary in the amount of ozone generated. Organic compounds can produce varying amounts of ozone because they react at different rates and via different reaction mechanisms. One concern expressed by industry is that if the VOC content limits are too low manufacturers may be forced to use more reactive solvents to achieve comparable product performance. For example, as discussed earlier, manufacturers may have to increase the usage of toluene and xylene in order to reformulate to a higher solids coating. Both toluene and xylene are very reactive compounds and have the potential to form significantly larger quantities of ozone than many other solvents. If manufacturers use VOC with higher reactivities, it is possible that decreasing the VOC content of the coating potentially increases the actual ozone formation.

This situation of a decrease in VOC emissions by mass but a potential increase in ozone formation has already been seen to occur in California. For example, Table 11–2 of California's 2005 Architectural Coatings Survey, (draft report), indicates that between 2001 and 2005, the sales volume for flat coatings increased by 7 percent (to 37.3 million gallons) while the total mass of VOC for this category for the same period decreased by 11 percent. However, even though the total emissions of VOC by mass decreased, the total ozone formed as a result of those VOC is estimated to have increased 5.4 percent (1.88 tpd) during the same period. This potential increase in ozone formation, notwithstanding decreased VOC emissions by mass, is a result of manufacturers using smaller

amounts total VOC, but an increased amount of more reactive VOC in order to meet tighter VOC limits (See California's 2001 Architectural Coatings Survey Final Reactivity Analysis—Table 2–6 (March 2005) and 2005 Architectural Coatings Survey DRAFT Reactivity Analysis—Table 2–2 (January 2007)). [For a complete copy of this report, please see *http://www.arb.ca.gov/coatings/arch/survey/2005/Draft_2005_Survey_Rpt.pdf. http://www.arb.ca.gov/coatings/arch/reactivity/Draft_Reactivity_Rpt.pdf. http://www.arb.ca.gov/coatings/arch/reactivity/final_reactivity_analysis_rpt.pdf*.

EPA believes that the use of relative reactivity is appropriate for aerosol coatings in particular, because there is a limit to the extent that solids contents can be increased and still have a coating that can be dispensed through an aerosol canister. This limitation precludes the range of reformulation with higher solids content that can be achieved for other types of coatings.

In the past, EPA has expressed reservations about using the concept of VOC relative reactivity in regulations for consumer products due to limitations in scientific studies and practical concerns about developing an effective regulation based on this concept. More recently, the California Air Resources Board (CARB) has worked to develop an effective way to regulate based upon this concept. In developing its own standards for aerosol coatings, CARB established limits are intended to limit the amount of ozone that is formed by a particular coating, rather than limit the VOC content of the coatings by mass. To develop a reactivity-based rule, CARB first identified the relative reactivity of each VOC ingredient used in aerosol coatings. CARB evaluated this using the Maximum Incremental Reactivity scale developed by Dr. William Carter.[27] In developing this scale, Dr. Carter identified and quantified each mechanism for ozone production that would exist for specific VOC, including those used in aerosol coatings. The final MIR value for each VOC is expressed in units of weight of ozone production per weight of VOC.[28] CARB used MIR values and the uncertainty values assigned particular bins of chemicals with product formulation data to derive, through an iterative process, a limit for the overall mass of ozone production allowed per mass of product. Because all organic compounds can contribute to the formation of ozone, CARB's reactivity limits include ozone formed by all VOC ingredients included in the coating, including compounds that EPA had previously exempted from the regulatory definition of VOC.

After review of Dr. Carter's work, the CARB rule, and recent studies organized under the RRWG (described earlier in the background section), we believe that the reactivity approach is a viable option for reducing the ozone that results from VOC emissions from the aerosol coatings category. These previous studies have indicated that the use of VOC reactivity can be effective for controlling ozone in episodes where NO_X is at its highest levels, such as in urban areas. For these types of VOC-limited conditions, ozone formation is more sensitive to VOC emissions. In such situations, limiting the reactivity of the VOC emissions can be more effective than merely limiting the overall mass of the VOC emissions.

EPA notes that metrics other than the MIR scale for characterizing reactivity have been studied, for example, the Maximum Ozone Incremental Reactivity (MOIR) or the Regional Average Ozone metric, but the box model MIR is the scale that has been most widely used and analyzed. Recent studies of 9 different ways of defining VOC reactivity have shown that all major methods are directionally consistent and highly correlated.[29] Derwent (2004) further concluded that ''the most promising reactivity metrics are EKMA-MIR and Regional MIR or MIR–3D.'' Because the only metrics with detailed values available for all chemical species of interest are the box model (EKMA) metrics, and the box model MIR has been used extensively in formulations under the California rule, we believe that the box model MIR is the most feasible metric for VOC relative reactivity to use at the current time. One important characteristic of the box model MIR is that it has the widest range of all metrics, which provides the best incentive for the substitution of higher reactive VOC with lower-reactive VOC. While this might allow a larger mass of VOC to be emitted than other metrics, tight limits will ensure that the increased mass will be restricted to the least reactive VOC.

Previous studies of large-scale, equal-ozone substitutions of VOC species have shown that downwind ozone could increase due to upwind substitutions of larger amounts of lesser reactive VOCs, but any increases tended to be much smaller than the magnitude of concurrent ozone decreases. The substitutions had a larger effect on reducing the higher ozone concentrations in the area upwind than they did on increasing downwind concentrations. Even in the extreme substitution scenarios that have been studied, the benefits for ozone (reduction in ozone peak) were significant. We believe that realistic changes in formulation using the MIR, especially if limited to aerosol coatings, are unlikely to result in a noticeable increase in ozone downwind. First, downwind areas are usually NO_X-limited, so small amounts of additional VOC will not influence ozone formation significantly. Furthermore, in cases where downwind areas are VOC-limited, potential downwind ozone increases will be counteracted to some extent by ozone decreases resulting from VOC substitution occurring simultaneously in the downwind area. Thus, we expect VOC reformulations based on the MIR scale to lead to an overall net decrease in ozone formation and exposure.

In the past, there has been some concern over the applicability of MIR values across the entire country, however studies [30] now demonstrate that the calculated MIR scales do not have significant geographical or temporal variation. Based on this information, we believe that using the MIR values to establish the relative reactivity of VOC ingredients in a reactivity-based approach is a viable option for consideration in a national rule.

While the chemical mechanisms for ozone production for many individual chemicals are somewhat to highly uncertain, this uncertainty is smaller for the majority of the organic compounds used as ingredients in aerosol coatings. Most of the VOC used in the products covered by this rule have been characterized as category 1 or 2 uncertainty, which Carter classifies as relatively certain (category 1) or uncertainty less than a factor of 2 (category 2).[31]

[27] Carter, W. P. L. (1994) ''Development of ozone reactivity scales for organic gases,'' J. Air Waste Manage. Assoc., 44: 881–899.

[28] ''Initial Statement of Reasons for the California Aerosol Coatings Regulation, California Air Resources Board,'' May 5, 2005.

[29] Carter, et al., 2003, Derwent, R.G. (2004) ''Evaluation and Characterization of Reactivity Metrics,'' Final Draft, Report to the U.S. EPA, Order No. 4D–5844–NATX, November 2004.

[30] Hakami, A., M.S. Bergin, and A.G. Russell (2004a) ''Ozone Formation Potential of Organic Compounds in the Eastern United States: A Comparison of Episodes, Inventories, and Domains,'' Environ. Sci. Technol. 2004, 38, 6748–6759.

[31] Carter, W.P.L. (2003) ''The SAPRC–99 Chemical Mechanism and Updated VOC Reactivity Scales,'' Report to the *California Air Resources*

Continued

Furthermore, uncertainty in the reactivity scales can be taken into account in the selection of reactivity limits as CARB did in defining the limits in its aerosol coatings regulation. CARB assigned each compound in its table of MIR values to one of six bins based on expert judgment about the level of uncertainty in the chemical mechanisms used to calculate the MIR value. CARB assigned an uncertainty factor to each of the six bins. CARB then adjusted the MIR values used in the calculation of the reactivity limits by multiplying each MIR by its assigned uncertainty factor. By applying this uncertainty factor, the resulting reactivity limits are more stringent than they would be calculated based on the MIR values alone, and provide some protection against setting values too low based on incomplete understanding of the chemistry of specific compounds.

For some compounds used in aerosol coatings for which no MIR value has been calculated, CARB assigned an upper limit MIR value based on theoretical limits of the ozone that could be formed by the compound. This approach is also conservative, providing some protection against setting reactivity limits too low or allowing reformulations that would increase ozone formation. We have set the reactivity factors in the proposed rule equal to the MIR or upper limit MIR used by CARB. This ensures that the limits in our proposed rule are equivalent to CARB's current rule, but allows EPA flexibility in the future to change this approach, if warranted.

All of the VOC that we have identified as common VOC components of aerosol coatings have been assigned reactivity factors. However, it is possible that a novel compound could be used in a product affected by this rule. In CARB's rule, if a VOC has not been assigned a MIR or upper limit MIR value, it cannot be used in a product to comply with that rule. In EPA's proposed rule, if a VOC is not assigned a reactivity factor, then the compound is assigned the maximum reactivity factor for any compound listed in the rule. Manufacturers and other interested parties can petition the Administrator to add a reactivity factor to the table in the rule for such a compound and are encouraged to provide sufficient evidence to allow the Administrator to assign a reactivity factor that is consistent with values assigned to the other listed compounds. This approach ensures that the reformulations allowed by the rule will not increase ozone formation.

Based on the information that we have about VOC used in aerosol coatings, we believe that the relative reactivity approach for this particular consumer product category is appropriate. However, there may be other source categories EPA considers for regulation where the organic compounds and their relative reactivity have not been as well-characterized. EPA has determined that it is appropriate to use the MIR values as the reactivity factors for this particular regulation. If a more suitable reactivity scale is developed in the future, EPA will evaluate that scale for possible regulatory use.

Therefore, our determination that the reactivity approach using the MIR values as the reactivity factors is currently only applicable to the aerosol coatings category. EPA has not concluded that it is appropriate to use the MIR scale for all applications. In developing future regulations, EPA may determine that a reactivity approach is not appropriate for a particular context or that a reactivity approach should be based upon reactivity factors other than the MIR values. EPA will make such future determinations on a case-by-case basis.

Based on EPA's determination that the reactivity approach can be effective in reducing the amount of ozone formed from the use of aerosol coatings, EPA has included the evaluation of limits based on reactivity in selecting BAC for the aerosol coatings category. The options EPA considered in developing BAC are presented in the following section.

2. Assessment of Best Available Controls.

CAA section 183(e) directs EPA to regulate Consumer and Commercial Products using ''best available controls.'' The term ''best available controls'' is defined in CAA section 183(e)(1)(A) as:

> The degree of emissions reduction that the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

EPA believes that CAA section 183(e) thus authorizes EPA to evaluate what approach would be ''best'' for this product category in light of various relevant factors.

In order to evaluate what would constitute BAC for this source category, EPA examined the approaches already attempted in other regulations by States. As discussed above, the California Air Resources Board (CARB) has a history of regulating VOC emissions from the aerosol coatings category. While several other States have regulations under consideration, only Oregon and Washington have existing standards and both of those States' regulations are based on CARB's 1996 Tier 1 VOC mass-based limits. Based on the experiences of CARB, EPA has considered both mass-based and reactivity-based limits for this product category. We considered three possible options for BAC for this category based upon past CARB regulations:

i. CARB 1996 VOC mass-based limits (Tier 1);

ii. CARB 2002 VOC mass-based limits (Tier 2); and,

iii. CARB 2002 reactivity-based limits.

In 1996, CARB implemented its first aerosol coatings regulation. The 1996 regulation contained two tiers of mass-based VOC limits. The first tier took effect in 1996 and the second tier, which contained more stringent mass-based VOC limits, was scheduled to take effect in 1999. CARB was required to conduct a public hearing on or before December 31, 1998, on the technological and commercial feasibility of achieving the 1999 limits and could grant an extension of time not to exceed 5 years if their Board determined that the second tier of limits was not technologically or commercially feasible by December 31, 1999.

On November 19, 1998, CARB adopted amendments to its aerosol coatings regulation by modifying the December 31, 1999, mass-based VOC limits and extended the effective date for those limits to 2002. However, CARB's Board recognized that some of the second tier limits would still be technologically challenging and directed CARB staff to develop a compliance option based on VOC reactivity. On June 22, 2000, CARB amended its regulation to replace the 2002 mass-based VOC limits with reactivity-based VOC limits intended to achieve the same degree of ozone reduction.

EPA did not consider the 1999 mass-based limits in our BAC analysis because CARB determined that those limits were not technologically feasible and never implemented the limits. CARB replaced the 1999 mass-based limits with more stringent limits in some categories and less stringent limits in other categories. We did include these 2002 VOC mass-based limits that

Board, Contracts No. 92–329 and 95–308. *http://pah.cert.ucr.edu/~carter/reactdat.htm.*

replaced the 1999 VOC mass-based limits in our BAC analysis.

Each of the three options EPA considered is discussed below. See the docket to this rulemaking for the tables of limits for each option.

i. CARB 1996 VOC Limits.

In 1995, CARB proposed limits on the VOC content of aerosol coatings. These limits were based on limits established by the Bay Area Air Quality Management District (BAAQMD) in Rule 8–49 in 1990. CARB's regulation included limits on six general categories of aerosol coating products and 29 specialty coating categories. The regulation established limits on the maximum VOC content, based on percent by weight, for each coating category. The standards were effective January 8, 1996; therefore they are referred to throughout this preamble as ''CARB 1996 VOC limits.''

According to CARB's Initial Statement of Reasons, the support document prepared by CARB for the new regulation, the 1996 limits were expected to reduce VOC emissions from the use of aerosol coatings in California by 12 percent. CARB determined that for most of the aerosol coating product categories covered by the rule, there were already products in the marketplace that met the 1996 limits. Comments made by industry members on the regulation indicated that industry believed the limits were feasible.

We believe that the 1996 VOC mass-based limits established by CARB for aerosol coatings are both technologically and economically feasible. Industry has complied with the 1996 limits in California for many years. CARB estimated that the 1996 limits would achieve a reduction of approximately 12 percent in VOC emissions and we believe that implementing these limits nationwide would result in a similar reduction. In 1997, CARB conducted a survey of aerosol coating manufacturers. For each of the major categories of aerosol coatings, the sales-weighted average VOC content for the category met or was lower than the 1996 limit. We know of no reason why these limits could not be established on a nationwide basis for the aerosol coatings category, providing a similar level of emission reduction.

ii. CARB 2002 VOC Mass-Based Limits.

As discussed earlier, CARB's 1995 regulation established two tiers of mass-based limits that took effect in 1996 and 1999. In 1997, CARB conducted a survey of manufacturers supplying aerosol coatings in California. The survey requested formulation and cost data for existing products in each category and information on the manufacturer's research and development efforts to reduce the VOC content of coatings.

Using the results from the 1997 survey and input from manufacturers, CARB revised the second tier aerosol coatings limits and extended the compliance date from 1999 to January 1, 2002. These limits are referred to as ''CARB 2002 VOC Limits'' in this preamble. The new limits were more stringent than the 1996 limits for all of the coating categories. CARB estimated that the 2002 limits would result in a VOC reduction of 3.1 tons VOC/day (or 8.4 percent) from the 1997 emission levels.

Based on CARB's 1997 survey data and CARB's later conclusion that the second tier mass-based VOC limits may not be feasible, EPA is concerned about the technological feasibility and availability of coatings to meet the 2002 VOC limits. Although the limits appear to be both feasible and available for some categories of aerosol coatings, the survey data indicate that this may not be true for all of the categories. For example, for the category of flat coating products, the survey showed that out of a total of 129 products, none met the 2002 VOC limits. For primers, only 5 of 162 products, less than 1 percent of the market, met the 2002 VOC limits. The market share for non-flat coatings meeting the limit was only 5 percent. These three categories, flat coatings, non-flat coatings, and primers, represent three of the four largest categories of aerosol coatings. While not dispositive, we think the absence of products meeting the limits is indicative of technological and feasibility constraints that would make the limits difficult to achieve.

Although the CARB survey was conducted in 1997 and it is possible that the technology has advanced since that time in order to meet such stringent mass based limits, we are concerned that this may not have happened. Although CARB adopted the 2002 VOC limits, these mass-based limits never took effect because CARB replaced the 2002 VOC limits when CARB adopted new reactivity-based limits for aerosol coatings in June 2000. It is likely that coating manufacturers have adjusted their research and development efforts towards reducing the reactivity of the VOC content of their coatings rather than the VOC mass content of their coatings. In some cases, a reduction in the reactivity may coincide with a reduction in VOC content but as discussed earlier, this is not necessarily the case. In fact, it may be possible to increase the VOC content of a coating while reducing the overall reactivity of the VOC ingredients. Because of this, we presume that industry may be no closer to meeting the 2002 VOC mass limits than they were in 1997.

In the March 2000 edition of the ''Issue Backgrounder,'' NPCA's quarterly newsletter, NPCA states that the 2002 limits ''would be technologically impossible for water-based coatings.'' CARB has also indicated that some of the limits may be difficult to meet with water-based technology. As water-based coatings are among the most environmentally friendly coatings, we are reluctant to base a rule on limits that could preclude the use of this technology.

Although we believe the 2002 VOC limits would have a significant environmental benefit, we have concerns about the technological feasibility and availability of coatings that meet these limits and therefore whether these limits represent BAC for the aerosol coatings industry.

iii. CARB 2002 Reactivity Limits.

As directed by its Board in 1998, CARB worked with industry to evaluate a VOC reactivity-based approach for the aerosol coatings category that would achieve a reduction in the formation of ozone equivalent to the 2002 mass-based VOC limits. Although CARB initially planned the reactivity-based approach as an alternative compliance method to the 2002 VOC mass-based limits, it ultimately concluded that having simultaneous mass-based and reactivity-based limits would cause confusion and decided to have only reactivity-based limits. To ensure the reactivity-based limits would achieve, at a minimum, an equivalent reduction in the formation of ozone to the 2002 VOC mass-based limits, CARB based its 2002 reactivity limits on the 2002 VOC limits. CARB first determined the amount of ozone reduction that it anticipated would be achieved from the implementation of the 2002 mass-based VOC limits. CARB then calculated, through an iterative process, an equivalent reactivity-based limit, so that the reactivity-based limit would result in the same ozone reduction as the mass-based limit. As described earlier, the required amount of ozone reduction was adjusted upwards to account for the possible uncertainty in reactivity values.[32]

[32] ''Initial Statement of Reasons for the Proposed Amendments to the Regulation for Reducing Volatile Organic Compound Emissions from Aerosol Coating Products—California Air Resources Board,'' Chapter IV, May 5, 2000.

The data from the 1997 survey demonstrated that complying products for the aerosol coatings reactivity limits were available in all but two specialty categories even in 1997. CARB has only received one variance request for the reactivity-based aerosol coating limits (*http://www.arb.ca.gov/consprod/variance/variance.htm*). NPCA has supported both the reactivity approach and the established limits. Based on a review of the limits and the supporting data, we believe that the reactivity limits established by CARB for the aerosol coatings category are technologically feasible and available as contemplated in section 183(e).

3. Determination of Best Available Controls (BAC)

We believe that the 1996 VOC limits developed by CARB are technologically feasible and, based on CARB's cost analysis, are also economically feasible. Therefore, they are certainly ''available.'' However, these limits were based on technology that was available in 1995, when CARB first proposed the limits. During the last 10 years, manufacturers of all types of paints and coatings have made significant technological advances in coating technology in response to the development of various state and national rules limiting both the VOC and HAP content of coatings. The 12 percent reduction in VOC emissions that could be achieved through the implementation of the 1996 limits is significantly less than the estimated 20 percent reduction in VOC emissions achieved by the implementation of the other national rules established under CAA section 183(e). We believe that the CARB 1996 VOC limits do not represent BAC for the aerosol coatings category if more stringent levels are available.

Although we believe the industry is capable of meeting limits more stringent than the 1996 VOC limits, we are concerned about the technological feasibility of the 2002 VOC mass-based limits. The 2002 VOC limits are more stringent than the 1996 limits. CARB's survey data indicated that many manufacturers would have a difficult time achieving the VOC content limits proposed for several of the major categories of aerosol coatings (See *http://www.arb.ca.gov/regact/conspro/aerosol/isor.pdf*). In addition, NPCA's concern that the limits may not be achievable through the use of water-based technology is of particular concern to us. Water-based coatings are an environmentally friendly technology that we do not want to be lost as an option to manufacturers. So long as VOC emission reductions contemplated by CAA section 183(e) are achieved, we believe that it is important that manufacturers retain as much flexibility as possible in selecting a reformulation technology to ensure they can manufacture coatings that meet the performance specifications required. In addition, we remain concerned that if water-based coatings are not an option to meet the limits, higher-solids coatings will be the primary alternative. Although we support the use of higher-solids coatings as an alternative to high VOC content coatings, we are concerned that if the limits are too stringent industry will be driven to increase its use of toluene, xylene, and other aromatic compounds. These aromatic compounds are all extremely effective solvents for use in higher-solids coatings, but they are also highly reactive compounds that generate more ozone than other solvents commonly used by the aerosols coating category.

As discussed earlier, we believe the reactivity approach is appropriate for the aerosol coatings category because the organic compounds used by the industry are well-characterized. Because the 2002 reactivity limits developed by CARB are based on the VOC reduction associated with the 2002 VOC limits, they ensure that the reactivity limits will achieve an equivalent environmental benefit to the 2002 VOC limits. The reactivity limits also offer industry significantly more flexibility in achieving that environmental benefit. Industry can substitute to lower reactivity solvents, use water-based technology, use higher-solids technology (without the potential drawbacks associated with the use of this technology in a mass-based VOC standard), or any combination of these approaches to meet the limits.

We have concluded that the reactivity limits established by CARB are based on sound scientific principles and represent an equivalent environmental benefit to even the most stringent 2002 VOC limits. It is likely that if EPA were to use a mass-based VOC approach for the aerosol coatings category, we would be required to set less stringent limits, perhaps based on the 1996 limits. Such an approach would achieve less environmental benefit.

EPA then evaluated the cost and economic impacts of the reactivity-based limits. The economic impact assessment focuses on changes in market prices and output levels. A more detailed discussion of the economic impacts is presented in the economic impact analysis memorandum that is included in the docket.

Both the magnitude of control costs needed to comply with the proposed rule and the distribution of these costs among affected facilities can have a role in determining how the market prices and quantities will change in response to the proposed rule when finalized. In this case, at the facility level, we have some uncertainty concerning both the amount of individual products being produced and whether the products currently comply with the proposed rule, or whether additional costs associated with reformulating the products will be required. Because California has a similar rule and products sold in California have already complied with the California rule, the costs imposed by the proposed EPA rule would entail only minor additional recordkeeping and recording costs. We also know that facilities are involved in production of other products not covered by this rule. We have no quantitative information on the relative contribution to revenue of products not covered by the rule in comparison to products covered by the rule.

Provided with the cost analysis is a cost per can estimate of going from a non-complying formulation to a complying formulation, and a sales price per can for each of the six general coating categories and the thirty specialty coating categories. Also provided is an estimate of the fraction of each coating category that complied before the imposition of the CARB rule. Finally, with the cost analysis is a list of facilities producing products covered by the CARB rule from a 1997 CARB survey and which categories are produced at each facility.

The cost per can, as a percentage of prices per can for going from non-complying to complying on a category basis, ranges from a cost savings to cost of 2.71 percent for the exact match finish industrial category. In order to provide a very rough measure of the impact on a per facility basis, the cost per price measure for each category produced by a particular facility was multiplied by the pre-CARB rule non-complying percentage and averaged across categories using a weighting of industry-wide market share from the pre-CARB rule survey.

The highest cost-to-sales ratio is 1.42 percent. Since this does not include revenues from other products, or the reduction in cost due to the CARB rule, it is very unlikely that the cost-to-sales ratio for any facility would exceed 1 percent. Thus a significant impact is not expected for a substantial number of small entities.

No significant market impact is expected because of the small cost increase compared to the price. Neither full cost absorption nor full cost pass-

through would result in significant impacts.

4. Consideration of Other Factors

In evaluating options for BAC, EPA must evaluate not only the positive environmental benefits of BAC but any potential negative environmental or health benefit. While reducing the population's exposure to ground-level ozone is important, exposing the population to increased levels of potentially toxic VOC is also a concern. This could occur since the use of relative reactivity encourages the use of specific (i.e., low reactivity) compounds to reduce ozone, despite other potential environmental and public health concerns. One compound that we are concerned about is methylene chloride, which has an extremely low MIR value and has also been listed as a HAP under section 112 of the Clean Air Act because of its potential toxic effects on human health and the environment. We remain concerned about the potential impact of an increase in the use of this compound. There are some HAP that would be reduced as a result of a regulation with a reactivity-based approach. For example, HAP such as toluene are highly reactive and accordingly have high MIR values. Therefore, they are unlikely to be used in large quantities in any aerosol coatings subject to a relative reactivity based regulation. In fact, we expect their use to be reduced. Thus, although CAA section 183(e) directs EPA to control VOC emissions from consumer products only for purposes of achieving the ozone NAAQS, we anticipate that choices made to regulate VOC can have collateral benefits or disbenefits in ways not related to the ozone NAAQS.

We are seeking comment on possible approaches to address the HAP emissions from aerosol coatings, including the use of a voluntary program. A voluntary program would seek to provide incentives to industry that voluntarily reduce the use of HAP in their product formulations. We request comment and suggestions on how this program could be identified, tracked, and recognized, including suggestions on the following:

- Whether the program would recognize only those formulations that reduced HAP content from a baseline before this rule was promulgated or if it should recognize all ''low HAP'' coatings.
- What should constitute ''low HAP.'' This could potentially be a set amount (percent or absolute) reduction or a maximum overall HAP content.
- What type of documentation should be required to document that the voluntary reduction has occurred. We are concerned that the documentation not be so burdensome as to be prohibitive; however, we want to ensure that facilities claiming ''low HAP'' coatings are meeting these requirements.
- What type of acknowledgement can be provided. We believe that some type of labeling of the product would be an option, but welcome other suggestions.

E. Compliance Demonstration Requirements

EPA is proposing compliance demonstration requirements necessary to ensure compliance with the rule. Initial compliance demonstration with this rule requires the regulated entity to complete initial compliance calculations for all coatings and develop and submit the initial notification. Ongoing compliance demonstration and reporting is only required when a regulated entity becomes responsible for a coating category that was not included in the original notification.

1. Determination of Coating Content

The ACRR allows a facility to determine compliance using either VOC formulation data or through the use of California's Test Method 310 or EPA's Test Method 311 (see Selection of Test Method). If formulation data are used, the regulated entity would need to identify and maintain records of all VOC present in the coating and propellant portions of the final aerosol product at a level equal to or greater than 0.1 percent. The same levels of recordkeeping would be required if CARB Method 310 or EPA Method 311 were used. In the event of an inconsistency between the results of Method 310 or 311 test data and a calculation based upon formulation data, the Method 310/311 data will govern the compliance calculation. These formulation data will then be used to calculate the reactivity value for the coatings, which would be compared to the limits presented in Table 1 of the rule.

We are aware that a single regulated entity may have tens, or even hundreds, of different product formulations, especially if different colors of the same basic product have slightly different formulations. It is not our intent to create unnecessary burden and we seek comment on how to limit this burden and still ensure compliance.

2. Calculation of Reactivity of Coating

Once the coating (including coating liquid and propellant) formulation data are known (i.e., either through formulation calculations or use of an approved test method), the calculation of the reactivity value for the product is relatively simple. Tables 2A, 2B, and 2C of the regulation contain reactivity factors that are currently based on the MIR values, and in some cases the upper limit MIR values, used by CARB in its regulation. These reactivity factors are used in conjunction with the formulation data to demonstrate compliance with the reactivity limits. First the compound Weighted Reactivity Factor (WRF) is calculated by multiplying the weight fraction of the individual ingredient (obtained from the formulation data) by the reactivity factor (RF) for that ingredient obtained from Table 2 of the regulation.

$$WRF_i = (WF_i) * (RF_i) \qquad \text{Equation 1}$$

Where:

WRF_i = Weighted reactivity factor for component i, g O_3/g product
WF_i = Weight fraction of component i
RF_i = reactivity factor for component i, g O_3/compound i

The WRFs for each component in the total coating are then summed to obtain the Product Weighted Reactivity (PWR).

$$PWR_p = WRF_1 + WRF_2 + \ldots + WRF_n \qquad \text{Equation 2}$$

Where:

PWR_p = Product weighted reactivity for product P, g O_3/g product
WRF_1 = Weighted reactivity factor for component 1, g O_3/g component
WRF_2 = Weighted reactivity factor for component 2, g O_3/g component
WRF_n = Weighted reactivity factor for component n, g O_3/g component

Both of these steps are incorporated into a single equation:

$$PWR_p = \sum_{i=1}^{n} (WF_i) * (RF_i) \qquad \text{Equation 3}$$

Where:

PWR_p = Product weighted reactivity for product P, g O_3/g product
WF_i = Weight fraction of component i

RF_i = Reactivity factor for component i, g O_3/compound i
n = Number of components in product P

The reactivity factor equals zero for non-solid components without carbon. Solid components, including but not limited to resins, pigments, fillers, plasticizers and extenders do not need to be included in this equation since the reactivity factor for all solids is zero. If a VOC component is not listed in Table 2, it is assigned a RF equal to the maximum value listed in the table.

The PWR for each product must then be compared to the limit for the specific coating category, provided in Table 1 of the regulation, to determine compliance.

F. Labeling Requirements

Section 183(e) of the CAA explicitly authorizes the EPA to require labeling and other requirements as part of a regulation. We are proposing to include labeling requirements that are necessary to implement the regulations effectively and to assure compliance. The requirements we propose pertain to the date the aerosol can is filled, the coating category of the product, and the applicable ACRR limit for the product.

The proposed regulation requires that containers for all subject coatings display the date of manufacture (or a code indicating the date). The date of manufacture on the label or can allows enforcement personnel to determine whether the coating was manufactured prior to or after the compliance date. The coating category and reactivity limit allow enforcement personnel to select a can of aerosol coating, test it using either CARB Method 310 or EPA Method 311, and compare the test results to the reactivity limit on the can.

G. Recordkeeping and Reporting Requirements

CAA section 183(e) also authorizes EPA to impose recordkeeping and reporting requirements. We are proposing recordkeeping and reporting requirements that are necessary to ensure compliance with the regulation. We propose to require an initial notification report for regulated entities. This report will provide basic information on the regulated entity (e.g. name, location) and will identify all coating categories that are manufactured at the facility. This will provide the EPA Regional Offices with a listing of companies in their areas that are manufacturing, processing, distributing, or importing aerosol coatings so that the appropriate Regional Office can follow up with those companies in the event a compliance issue arises. Furthermore, this report will explain the date code system used to label products, if the date code is not immediately obvious (e.g., month-day-year format). This will assist EPA in identifying products that were manufactured after the compliance date and are therefore subject to this regulation. Finally, the affected entity is required to include an explanation of how the term ''batch'' will be interpreted for each formulation. This report is due 90 days before the compliance date for the rule.

Under the proposed rule, the regulated entity is required to conduct compliance calculations for each coating formulation. These calculations must be maintained onsite, for 5 years. However, we are proposing that no reporting of these calculations or the results to EPA is required unless a specific request for those results is made by the Administrator (defined in the regulation to include EPA Regional Offices). We are also proposing that the regulated entity must maintain records of the date each batch of a particular formulation was manufactured, the volume of each batch, the number of cans manufactured in each batch and each formulation, and the recipe used for formulating each batch.

After the initial compliance report, we are proposing to require additional reporting if a regulated entity adds a new coating category or changes other information in the initial report (e.g., contact information, file location). Specifically, when this happens, we are proposing to require a new notification containing the updated information.

We are also requesting comment on whether the proposed recordkeeping and reporting requirements included in this proposed rule should be expanded to ensure that the Agency can verify a regulated entity's compliance with the regulation. To verify compliance of an individual product with the applicable limit, it is necessary to analyze its VOC composition and calculate the product-weighted reactivity of the mixture. Without prior information about product composition, identifying the VOC composition of a product is difficult. Therefore, we request comment on the feasibility and need for a requirement for regulated entities to submit to the Agency their VOC formulations for each product or product formulation in the initial report and on a periodic basis thereafter. We anticipate that such a report would consist of a simple listing of the following items: (1) A manufacturer identifier, (2) a product identifier, (3) the applicable product-weighted reactivity-based limit, (4) the Chemical Abstract Service number of each VOC component, (5) the maximum mass fraction of the VOC component in the product, and (6) the applicable reactivity factor for the VOC component. Because CAA section 183(e) is intended to achieve VOC emission reductions for purposes of reducing ozone, the composition information provided in the report would be limited to the VOC components of the coating and would not include information on the resins or other non-VOC components. Because each unit of product must meet the applicable limits of the rule, the report would only need to address VOC composition and would not include information on the quantity of each product produced or sold.

Given that regulated entities are required to keep such composition information to demonstrate compliance under the proposed rule, a requirement to submit this information to EPA periodically in a simple format should impose minimal additional burden or cost for industry provided that the reporting mechanism is easy to access and use. Such a report would provide regulated entities an opportunity to review their products' compliance with the applicable standards and therefore help to assure compliance.

EPA notes that the VOC composition of coatings subject to this proposed rule is ''emissions data'' under section 114 of the CAA, and EPA's regulatory definition of such term in 40 CFR part 2, because the information is necessary to determine compliance with applicable limits. As such, this information must be available to the public regardless of whether EPA obtains the information through a reporting requirement or through a specific request to the regulated entity. Therefore, such information is not eligible for treatment as ''confidential business information'' under proposed section 59.516.

We specifically solicit comment on the following questions related to the initial report and any potential periodic reporting requirement for information related to VOC composition of products subject to this rule: (1) Whether there is a need for such a reporting requirement to allow for more effective implementation and enforcement of the regulation; and (2) what specific contents should be required in such reports. With respect to any potential periodic reporting requirement, we also request comment on what frequency or under what circumstances such reporting should be required. As to the mechanism or method for submitting initial or periodic reports to EPA, we specifically solicit comment on whether, given the nature of the reports under consideration, it would be advantageous for regulated entities to

submit reports electronically. Electronic reporting to a centralized electronic database could help to decrease the burden and cost to regulated entities. A database of composition information would also help EPA track the effect of the rule on VOC emissions composition and provide information that is necessary for effective implementation and enforcement of the rule. For each of these questions, EPA solicits comment regarding the burdens and cost that reporting requirements might impose, and what EPA could do to minimize the burdens and cost, especially with respect to small entities.

We are proposing an exemption from the limits of the rule for those entities that manufacturer only a small amount of aerosol coatings. We believe that this exemption will serve to mitigate the impacts of the rule upon small manufacturers for whom compliance with the rule could impose disproportionately high costs through reformulation of products produced only in small volumes. Given this objective, and in order to avoid unnecessary excess VOC emissions that could be significant in the aggregate, we are proposing that this exemption from the limits would be available only for those manufacturers that have annual production of aerosol coatings products with total VOC content not in excess of 7,500 kg of VOC in all aerosol coating product categories. We emphasize that this to be determined by total VOC content by mass, in all product categories manufactured by the entity. We consider making this distinction based upon total VOC mass, rather than some reactivity-adjusted calculation, necessary both to minimize the analytical impacts upon the entity seeking the exemption from the rule, and to provide for more effective implementation and enforcement of this aspect of the rule.

A manufacturer that qualifies for the exemption must notify EPA of this in the initial notification report required in proposed section 59.511. As a condition for the exemption from the limits, the proposed rule also requires the entity to file an annual report with EPA providing the information necessary to evaluate and to establish that the products manufactured by the entity are properly exempt from the limits of rule. This information is necessary to assure that the entity is in compliance, even if its products do not meet the limits of the rule. EPA notes that an exemption under EPA's national rule for aerosol coatings under section 183(e) does not alter any requirements under any applicable state or local regulations.

We specifically request comment on whether there is a need for an exemption of this type for very small manufacturers. In addition, we request comment on the features of the exemption as we have proposed it. Finally, in order to get better information about the number of manufactures that would potentially use such an exemption, we specifically request that interested commenters indicate whether they would elect to use the exemption from the limits.

The proposed rule requires all regulated entities to comply by January 1, 2009. EPA believes that compliance by this date is readily achievable by most, if not all, regulated entities subject to this rule. However, in the case of regulated entities that have not previously met the limits already imposed by regulation in the State of California, EPA believes that it may be appropriate to provide an extension of the compliance date on a case by case basis. Therefore, the proposed rule includes a provision that will allow regulated entities that have not previously manufactured, imported, or distributed for sale or distribution in California any product in any category listed in Table 1 of this subpart that complies with applicable California regulations for aerosol coatings to seek an extension of the compliance date. Such extensions will be granted at the discretion of the Administrator. The grant or denial of a compliance date extension does not affect the right of the regulated entity to seek a variance under this rule.

H. Variance Criteria

The proposed ACRR includes a variance provision. Companies may require a variance for several reasons. The regulated entity may be responsible for a coating that has more extensive performance requirements than other coatings in the category so that reformulating that coating to meet the reactivity limits is more difficult than it is for other coatings. In some cases, a regulated entity may experience an interruption in the supply of a particular compound necessary to the performance of a coating due to a fire or other exceptional event at the supplier's facility. Furthermore, small companies may require longer to reformulate a coating due to limited resources. The proposed rule requires regulated entities to submit a written application to the Administrator requesting a variance if, for reasons beyond their reasonable control, they cannot comply with the requirements of the proposed rule. The application must include the following information:

(1) The specific products for which the variance is sought;

(2) The specific provisions of the subpart for which the variance is sought;

(3) The specific grounds upon which the variance is sought;

(4) The proposed date(s) by which compliance with the provisions of the rule will be achieved; and

(5) A compliance plan detailing the method(s) by which compliance will be achieved.

Upon receipt of the variance application, the Administrator will determine whether a variance is warranted.

The Administrator may grant a variance if the following criteria are met:

(1) Complying with the provisions of this subpart would not be technologically or economically feasible.

(2) The compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

The approved variance order will designate a final compliance date and a condition that specifies increments of progress necessary to assure timely compliance. A variance shall end immediately upon the failure of the regulated entity to comply with any term or condition of the variance.

The EPA understands that some regulated entities may face more challenges in meeting the limits of the regulation than others. Therefore, the Administrator will carefully evaluate requests from regulated entities' facilities, particularly small businesses that have not marketed their products in regulated areas prior to this rulemaking.

I. Test Methods

To demonstrate compliance with the proposed reactivity limits, it is necessary to identify the species of reactive organic compounds that are present in the coating and the percent weight of each compound. While regulated entities may use formulation data to demonstrate compliance with this rule, the rule requires that the results of calculations using formulation data be consistent with results of calculations obtained from approved test methods. CARB's Method 310 is the primary test method we have included in the regulation for demonstrating compliance with the reactivity limits. Method 310 is essentially a compendium of methods developed by other agencies (for example, ASTM, U.S. EPA, NIOSH) that focus on identifying and quantifying the components of an aerosol coating. Manufacturers and

regulatory agencies using Method 310 to determine the compliance status of a coating must select the appropriate methods from Method 310 that will ensure the necessary data are generated. There is no one method that will provide the necessary data. For example, as a minimum, it will be necessary to use one of the ASTM methods referenced in Method 310 to separate the propellant from the liquid portion of the coating and another method, or in some cases, multiple methods, to analyze the propellant and liquid portions for VOC content. Although Method 310 is complex, EPA believes that it is an appropriate method to incorporate into the aerosol coatings regulation. The method has been used in California to demonstrate compliance with the reactivity limits developed for aerosol coatings in that state and EPA believes it is an effective method for demonstrating compliance with this regulation. [Other issues associated with this method are identified in a memorandum included in the docket to this rule (EPA–HQ–OAR–2006–0971)].

We have also included EPA's Test Method 311—Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings—as an alternative test method to CARB's Method 310. Aerosol coating manufacturers and regulatory agencies can elect to use Method 311 to demonstrate compliance with the reactivity limits. As the title of Method 311 suggests, EPA originally developed this method to analyze the HAP content of coatings. However, EPA believes that the method is applicable to the identification and quantification of organic compounds that may be present in aerosol coatings.

As with Method 310, it is necessary that the analyst be provided with a list of the compounds in the coating so that the analyst can properly calibrate the gas chromatograph that will be used for the analysis. Because Method 311 was developed specifically for the analysis of coatings, it is in many ways a simpler and more straightforward method than 310. The results from Method 311 are based on percent by weight, so it is not necessary to convert the results to another metric. The sample preparation instructions in Method 311, with the exception of the aerosol portion of the coating, do not require any adjustments since they were specifically developed for the analysis of liquid samples. We know of no reason why the data collected using Method 311 should be any less accurate than those collected using Method 310. For these reasons, we have decided to include Method 311 as an alternative to Method 310.

Because Method 311 was developed for the analysis of liquid coatings and aerosol coatings containing both liquid and gaseous components, those electing to use Method 311 must also use either ASTM Method D3063–94 or D3074–94 to collect the propellant for analysis. As discussed earlier, this is also true for those running Method 310. The only difference is that the ASTM methods are specifically referenced in Method 310.

V. Statutory and Executive Order (EO) Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action'' since it raises novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the OMB under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. The Information Collection Request (ICR) document prepared by EPA has been assigned EPA ICR number 2266.01.

The information collection requirements are based on recordkeeping and reporting requirements. These recordkeeping and reporting requirements are specifically authorized by CAA section 114 (42 U.S.C. 7414). All information submitted to EPA pursuant to the recordkeeping and reporting requirements for which a claim of confidentiality is made is safeguarded according to Agency policies set forth in 40 CFR part 2, subpart B.

The proposed standards would require regulated entities to submit an initial notification and other reports as outlined in section IV.F.

We estimate that about 62 regulated entities would be subject to the proposed standards. New and existing regulated entities would have no capital costs associated with the information collection requirements in the proposed standards.

The estimated recordkeeping and reporting burden in the 3rd year after the effective date of the promulgated rule is estimated to be 7986 labor hours at a cost of $472,386.00. This estimate includes the cost of reporting, including reading instructions, information gathering, preparation of initial and supplemental reports, and variance applications. Recordkeeping cost estimates include reading instructions, planning activities, calculation of reactivity, and maintenance of batch information. The average hours and cost per regulated entity would be 128 hours and $7,619.00. About 62 facilities would respond per year.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

To comment on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, EPA has established a public docket for this rule, which includes this ICR, under Docket ID number EPA–HQ–OAR–2006–0971. Submit any comments related to the ICR for this proposed rule to EPA and OMB. See **ADDRESSES** section at the beginning of this notice for where to submit comments to EPA. Send comments to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for EPA. Since OMB is required to make a decision concerning the ICR between 30 and 60 days after July 16, 2007 in the **Federal Register**, a comment to OMB is best assured of having its full effect if OMB receives it by August 15, 2007 in the **Federal Register**. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district, or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed regulatory action, I certify that this action will not have a significant economic impact on a substantial number of small entities because the cost to sales ratio is small for all of the facilities owned by small entities. The small entities directly regulated by this proposed rule are small manufacturers, processors, wholesale distributors, or importers of aerosol coatings for sale or distribution in interstate commerce in the United States. Our analysis indicates that all 43 of the identified small entities (seventy-two percent of all identified facilities) will likely experience a cost impact of less than one percent of revenues.

Although this proposed rule will not have a significant economic impact on a substantial number of small entities, EPA nonetheless has tried to reduce the impact of this rule on small entities in two ways. First, the proposed rule considers issuance of a special compliance extension that extends the date of compliance by two years for regulated entities that have never manufactured, imported, or distributed aerosol coatings for sale or distribution in California in compliance with California's Regulation for Reducing Ozone Formed from Aerosol Coating Product Emissions, Title 17, California Code of Regulations, Sections 94520–94528. Finally, the proposed rule includes an exemption from the limits in Table 1 of subpart E of the rule for those manufacturers that manufacture very limited amounts of aerosol coatings, i.e., products with a total VOC content by mass of no more than 7,500 kilograms of VOC per year in the aggregate for all products. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

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

EPA has determined that the proposed regulatory action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, or tribal governments, in the aggregate, or the private sector in any one year. Thus, this proposed action is not subject to the requirements of sections 202 and 205 of the UMRA. In addition, we have determined that the proposed regulatory action contains no regulatory requirements that might significantly or uniquely affect small governments because they contain no regulatory requirements that apply to such governments or impose obligations upon them. Therefore, this action is not subject to the requirements of section 203 of UMRA.

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 EO to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

The proposed regulatory action does not have federalism implications. The action 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 EO 13132. The CAA establishes the relationship between the Federal Government and the States, and this action does not impact that relationship. Thus, EO 13132 does not apply to the proposed regulatory action. However, in the spirit of EO 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA is soliciting comment on the proposed regulatory action from State and local officials.

F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments

EO 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.''

The proposed action does not have Tribal implications as defined by EO 13175. The proposed regulatory action does not have a substantial direct effect on one or more Indian Tribes, in that the proposed action imposes no regulatory burdens on tribes. Furthermore, the proposed action does not affect the relationship or distribution of power

and responsibilities between the Federal Government and Indian Tribes. The CAA and the Tribal Authority Rule (TAR) establish the relationship of the Federal Government and Tribes in implementing the Clean Air Act. Because the proposed rule does not have Tribal implications, EO 13175 does not apply.

G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) is determined to be ''economically significant'' as defined under EO 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, section 5B501 of the EO directs the Agency to 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 proposed regulatory action is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866. In addition, EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health and safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulations. The proposed regulatory action is not subject to Executive Order 13045 because it does not include regulatory requirements based on health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations 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. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. No. 104–113, Section 12(d), 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. The VCS are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency does not use available and applicable VCS.

This proposed rule involves technical standards. The EPA cites the following standards in this rule: California Air Resources Board (ARB) Method 310, ''Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products;'' EPA Method 311 in 40 CFR part 60, appendix B, in conjunction with American Society of Testing and Materials (ASTM) method D3063–94 or D3074–94 for analysis of the propellant portion of the coating; South Coast Air Quality Management District (SCAQMD) method 318–95, ''Determination of Weight Percent Elemental Metal in Coatings by X-ray Diffraction'' for metal content; ASTM D523–89 (1999) for specular gloss of flat and nonflat coatings; and ASTM D1613–03, ''Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products'' for acid content of rust converters.

The EPA Method 311 also is a compilation of voluntary consensus standards. The following are incorporated by reference in Method 311: ASTM D1979–91, ASTM D3432–89, ASTM D4457–85, ASTM D4747–87, ASTM D4827–93, and ASTM PS9–94.

Consistent with the NTTAA, EPA conducted searches to identify voluntary consensus standards in addition to these methods. No applicable voluntary consensus standards were identified.

For the methods required by the proposed rule, a source may apply to EPA for permission to use alternative test methods or alternative monitoring requirements in place of any required testing methods, performance specifications, or procedures under sections 63.7(f) and 63.8(f) of Subpart A of the General Provisions.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it increases the level of environmental protection for all affected populations without having any disproportionately high and adverse human health or environmental effects on any population, including any minority or low-income populations. Further, it establishes national emission standards for VOC in aerosol coatings.

List of Subjects

40 CFR Part 51

Environmental protection, Administrative practice and procedure, Air pollution control, Carbon monoxide, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compound.

40 CFR Part 59

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Consumer products, Aerosol coatings.

Dated: June 29, 2007.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, part 59 of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—[AMENDED]

1. The authority citation for Part 51 continues to read as follows:

Authority: 23 U.S.C. 101; 42 U.S.C. 7401–7671q.

2. Section 51.100 is amended by adding paragraph (s)(7) to read as follows:

§ 51.100 Definitions.

* * * * *

(s) * * *

(7) For the purposes of determining compliance with EPA's aerosol coatings

reactivity based regulation (as described in Part 59—National Volatile Organic Compound Emission Standards for Consumer and Commercial Products) any organic compound in the volatile portion of an aerosol coating is counted towards the product's reactivity-based limit. Therefore, the compounds identified in paragraph (s) of this section as negligibly reactive and excluded from EPA's definition of VOC are to be counted towards a product's reactivity limit for the purposes of determining compliance with EPA's aerosol coatings reactivity-based national regulation.

* * * * *

PART 59—[AMENDED]

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

Authority: 42 U.S.C. 7414 and 7511b(e).

4. Subpart E is added to read as follows:

Subpart E—National Volatile Organic Compound Emission Standards for Aerosol Coatings

Sec.

59.500 What is the purpose of this subpart?
59.501 Am I subject to this subpart?
59.502 When do I have to comply with this subpart?
59.503 What definitions apply to this subpart?
59.504 What limits must I meet?
59.505 How do I demonstrate compliance with the reactivity limits?
59.506 How do I demonstrate compliance if I manufacture multi-component kits?
59.507 What are the labeling requirements for aerosol coatings?
59.508 What test methods must I use?
59.509 Can I get a variance?
59.510 What records am I required to maintain?
59.511 What reports must I submit?
59.512 Addresses of EPA regional offices.
59.513 State authority.
59.514 Circumvention.
59.515 Incorporations by reference.
59.516 Availability of information and confidentiality
Table 1 to Subpart E to Part 59—Product-Weighted Reactivity Limits by Coating Category
Table 2A to Subpart E to Part 59—Reactivity Factors
Table 2B to Subpart E to Part 59—Reactivity Factors for Aliphatic Hydrocarbon Solvent Mixtures
Table 2C to Subpart E to Part 59—Reactivity Factors for Aromatic Hydrocarbon Solvent Mixtures

Subpart E—National Volatile Organic Compound Emission Standards for Aerosol Coatings

§ 59.500 What is the purpose of this subpart?

This subpart establishes the product weighted reactivity (PWR) limits regulated entities must meet to in order to comply with the national rule for volatile organic compounds emitted from aerosol coatings. This subpart also establishes labeling, and recordkeeping and reporting requirements for regulated entities.

§ 59.501 Am I subject to this subpart?

(a) You are a regulated entity under this rule and subject to this subpart if you are listed in either paragraph (a)(1) or (a)(2) of this section.

(1) Manufacturers, processors, wholesale distributors, or importers of aerosol coatings for sale or distribution in interstate commerce in the United States; or

(2) Manufacturers, processors, wholesale distributors, or importers that supply the entities listed in paragraph (a)(1) with such products for sale or distribution in interstate commerce in the United States.

(b) Except as provided in paragraph (e) of this section, as a manufacturer or importer of the product, you are subject to the product weighted reactivity limits presented in § 59.504 even if you are not named on the label. If you are a distributor named on the label, you are responsible for compliance with all sections of this subpart except for the limits presented in § 59.504. Distributors that are not named on the label are not subject to this subpart. If there is no distributor named on the label, then the manufacturer or importer is responsible for complying with all sections of this subpart.

(c) Except as provided in paragraph (e) of this section, the provisions of this subpart apply to aerosol coatings manufactured on or after January 1, 2009 for sale or distribution in the United States.

(d) You are not a regulated entity under this subpart if you manufacture coatings (in or outside of the United States) that are exclusively for sale outside the United States.

(e) If you are a manufacture of aerosol coatings but the total amount of VOC by mass in the products you manufacture, in the aggregate, is less than 7,500 kg per year, then the products you manufacture in such year are exempt from the product-weighted reactivity limits presented in § 59.504, so long as you are in compliance with the other applicable provisions of this subpart.

§ 59.502 When do I have to comply with this subpart?

(a) Except as provided in § 59.509 and paragraph (b) of this section, you must be in compliance with all provisions of this subpart by January 1, 2009.

(b) The Administrator will consider issuance of a special compliance extension that extends the date of compliance until January 1, 2011, to regulated entities that have never manufactured, imported, or distributed aerosol coatings for sale or distribution in California in compliance with California's Regulation for Reducing Ozone Formed from Aerosol Coating Product Emissions, Title 17, California Code of Regulations, Sections 94520–94528. In order to be considered for an extension of the compliance date, you must submit a special compliance extension application to the EPA Administrator no later than 90 days before the compliance date or within 90 days before the date that you first manufacture aerosol coatings, whichever is later. This application must contain the information in paragraphs (b)(1) through (b)(5) of the section:

(1) Company name;

(2) A signed certification by a responsible company official that the regulated entity has not at any time manufactured, imported, or distributed for sale or distribution in California any product in any category listed in Table 1 of this subpart that complies with California's Regulation for Reducing Ozone Formed From Aerosol Coating Product Emissions, Title 17, California Code of Regulations, Sections 94520–94528;

(3) A statement that the regulated entity will, to the extent possible within its reasonable control, take appropriate action to achieve compliance with this subpart by January 1, 2011;

(4) A list of the product categories in Table 1 of this subpart that the regulated entity manufactures, imports, or distributes; and,

(5) Name, title, address, telephone, e-mail address, and signature of the certifying company official.

(6) If a regulated entity remains unable to comply with the limits of this rule by January 1, 2011, the regulated entity may seek a variance in accordance with § 59.509.

§ 59.503 What definitions apply to this subpart?

The following terms are defined for the purposes of this subpart only.

Administrator means the Administrator of the United States Environmental Protection Agency (U.S. EPA) or an authorized representative.

Aerosol Coating Product means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant and is packaged in a disposable can for hand-held application or for use in specialized equipment for ground traffic/marking applications. For the purpose of this regulation, applicable aerosol coatings categories are listed in Table 1 of this subpart.

Art Fixative or Sealant means a clear coating, including art varnish, workable art fixative, and ceramic coating, which is designed and labeled exclusively for application to paintings, pencil, chalk, or pastel drawings, ceramic art pieces, or other closely related art uses, in order to provide a final protective coating or to fix preliminary stages of artwork while providing a workable surface for subsequent revisions. ASTM means the American Society for Testing and Materials.

Autobody Primer means an automotive primer or primer surfacer coating designed and labeled exclusively to be applied to a vehicle body substrate for the purposes of corrosion resistance and building a repair area to a condition in which, after drying, it can be sanded to a smooth surface.

Automotive Bumper and Trim Product means a product, including adhesion promoters and chip sealants, designed and labeled exclusively to repair and refinish automotive bumpers and plastic trim parts.

Aviation Propeller Coating means a coating designed and labeled exclusively to provide abrasion resistance and corrosion protection for aircraft propellers. Aviation or Marine Primer means a coating designed and labeled exclusively to meet federal specification TT–P–1757.

Clear Coating means a coating which is colorless, containing resins but no pigments except flatting agents, and is designed and labeled to form a transparent or translucent solid film.

Coating Solids means the nonvolatile portion of an aerosol coating product, consisting of the film forming ingredients, including pigments and resins.

Commercial Application means the use of aerosol coating products in the production of goods, or the providing of services for profit, including touch-up and repair.

Corrosion Resistant Brass, Bronze, or Copper Coating means a clear coating designed and labeled exclusively to prevent tarnish and corrosion of uncoated brass, bronze, or copper metal surfaces.

Distributor means any person to whom an aerosol coating product is sold or supplied for the purposes of resale or distribution in commerce, except that manufacturers, retailers, and consumers are not distributors.

Enamel means a coating which cures by chemical cross-linking of its base resin and is not resoluble in its original solvent.

Engine Paint means a coating designed and labeled exclusively to coat engines and their components.

Exact Match Finish, Automotive means a topcoat which meets all of the following criteria:

(1) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied automotive coating during the touch-up of automobile finishes;

(2) The product is labeled with the manufacturer's name for which they were formulated; and

(3) The product is labeled with one of the following:

(i) The original equipment manufacturer's (O.E.M.) color code number;

(ii) The color name; or

(iii) Other designation identifying the specific O.E.M. color to the purchaser. Not withstanding the foregoing, automotive clear coatings designed and labeled exclusively for use over automotive exact match finishes to replicate the original factory applied finish shall be considered to be automotive exact match finishes.

Exact Match Finish, Engine Paint means a coating which meets all of the following criteria:

(1) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied engine paint;

(2) The product is labeled with the manufacturer's name for which they were formulated; and

(3) The product is labeled with one of the following:

(i) The original equipment manufacturer's (O.E.M.) color code number;

(ii) The color name; or

(iii) Other designation identifying the specific original equipment manufacturer (O.E.M.) color to the purchaser.

Exact Match Finish, Industrial means a coating which meets all of the following criteria:

(1) The product is designed and labeled exclusively to exactly match the color of an original, factory-applied industrial coating during the touch-up of manufactured products;

(2) The product is labeled with the manufacturer's name for which they were formulated; and

(3) The product is labeled with one of the following:

(i) O.E.M. color code number; (ii) the color name; or (iii) other designation identifying the specific O.E.M. color to the purchaser.

Flat Paint Products means a coating which, when fully dry, registers specular gloss less than or equal to 15 on an 85° gloss meter, or less than or equal to 5 on a 60° gloss meter, or which is labeled as a flat coating.

Flatting Agent means a compound added to a coating to reduce the gloss of the coating without adding color to the coating.

Floral Spray means a coating designed and labeled exclusively for use on fresh flowers, dried flowers, or other items in a floral arrangement for the purposes of coloring, preserving or protecting their appearance.

Fluorescent Coating means a coating labeled as such, which converts absorbed incident light energy into emitted light of a different hue.

Glass Coating means a coating designed and labeled exclusively for use on glass or other transparent material to create a soft, translucent light effect, or to create a tinted or darkened color while retaining transparency.

Ground Traffic/Marking Coating means a coating designed and labeled exclusively to be applied to dirt, gravel, grass, concrete, asphalt, warehouse floors, or parking lots. Such coatings must be in a container equipped with a valve and spray head designed to direct the spray toward the surface when the can is held in an inverted vertical position.

High Temperature Coating means a coating, excluding engine paint, which is designed and labeled exclusively for use on substrates which will, in normal use, be subjected to temperatures in excess of 400°F.

Hobby/Model/Craft Coating means a coating which is designed and labeled exclusively for hobby applications and is sold in aerosol containers of 6 ounces by weight or less.

Impurity means an individual chemical compound present in a raw material which is incorporated in the final aerosol coatings formulation, if the compound is present in amounts below the following in the raw material:

(1) For individual compounds that are carcinogens each compound must be present in an amount less than 0.1 percent by weight;

(2) For all other compounds present in a raw material, a compound must be present in an amount less than 1 percent by weight.

Ingredient means a component of an aerosol coating product.

Lacquer means a thermoplastic film-forming material dissolved in organic solvent, which dries primarily by solvent evaporation, and is resoluble in its original solvent.

Manufacturer means any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product.

Marine Spar Varnish means a coating designed and labeled exclusively to provide a protective sealant for marine wood products.

Metallic Coating means a topcoat which contains at least 0.5 percent by weight elemental metallic pigment in the formulation, including propellant, and is labeled as ''metallic'', or with the name of a specific metallic finish such as ''gold'', ''silver'', or ''bronze.''

Multi-Component Kit means an aerosol spray paint system which requires the application of more than one component (e.g. foundation coat and top coat), where both components are sold together in one package.

Nonflat Paint Product means a coating which, when fully dry, registers a specular gloss greater than 15 on an 85° gloss meter or greater than five on a 60° gloss meter.

Ozone means a colorless gas with a pungent odor, having the molecular form O_3.

Photograph Coating means a coating designed and labeled exclusively to be applied to finished photographs to allow corrective retouching, protection of the image, changes in gloss level, or to cover fingerprints.

Pleasure Craft means privately owned vessels used for noncommercial purposes.

Pleasure Craft Finish Primer/Surfacer/Undercoater means a coating designed and labeled exclusively to be applied prior to the application of a pleasure craft topcoat for the purpose of corrosion resistance and adhesion of the topcoat, and which promotes a uniform surface by filling in surface imperfections.

Pleasure Craft Topcoat means a coating designed and labeled exclusively to be applied to a pleasure craft as a final coat above the waterline and below the waterline when stored out of water. This category does not include clear coatings.

Polyolefin Adhesion Promoter means a coating designed and labeled exclusively to be applied to a polyolefin or polyolefin copolymer surface of automotive body parts, bumpers, or trim parts to provide a bond between the surface and subsequent coats.

Primer means a coating labeled as such, which is designed to be applied to a surface to provide a bond between that surface and subsequent coats.

Product Weighted Reactivity (PWR) Limit means the maximum ''product-weighted reactivity,'' as calculated in § 59.505, allowed in an aerosol coating product that is subject to the limits specified in § 59.504 for a specific category, expressed as g O_3/g product.

Propellant means a liquefied or compressed gas that is used in whole or in part, such as a co-solvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

Reactivity Factor (RF) is a measure of the change in mass of ozone formed by adding a gram of a VOC to the ambient atmosphere, expressed to hundredths of a gram (g O_3/g VOC). The RF values for individual compounds and hydrocarbon solvents are specified in Tables 2A, 2B, and 2C of this subpart.

Regulated Entity means the company, firm, or establishment which is listed on the product's label. If the label lists two companies, firms or establishments, the responsible party is the party which the product was ''manufactured for'' or ''distributed by'', as noted on the label.

Retailer means any person who sells, supplies, or offers aerosol coating products for sale directly to consumers.

Retail Outlet means any establishment where consumer products are sold, supplied, or offered for sale, directly to consumers.

Shellac Sealer means a clear or pigmented coating formulated solely with the resinous secretion of the lac beetle (Laccifer lacca), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

Slip-Resistant Coating means a coating designed and labeled exclusively as such, which is formulated with synthetic grit and used as a safety coating.

Spatter Coating/Multicolor Coating means a coating labeled exclusively as such wherein spots, globules, or spatters of contrasting colors appear on or within the surface of a contrasting or similar background.

Stain means a coating which is designed and labeled to change the color of a surface but not conceal the surface.

Vinyl/Fabric/Leather/Polycarbonate Coating means a coating designed and labeled exclusively to coat vinyl, fabric, leather, or polycarbonate substrates or to coat flexible substrates including rubber or thermoplastic substrates.

Volatile Organic Compound (VOC) means any organic compound as defined in § 51.100(s) of this chapter. Exemptions from the definition of VOC in § 51.100(s)(1) are inapplicable for purposes of this subpart.

Webbing/Veiling Coating means a coating designed and labeled exclusively to provide a stranded to spider webbed appearance when applied.

Weight Fraction means the weight of an ingredient divided by the total net weight of the product, expressed to thousandths of a gram of ingredient per gram of product (excluding container and packaging).

Weld-Through Primer means a coating designed and labeled exclusively to provide a bridging or conducting effect for corrosion protection following welding.

Wood Stain means a coating which is formulated to change the color of a wood surface but not conceal the surface.

Wood Touch-Up/Repair/Restoration means a coating designed and labeled exclusively to provide an exact color or sheen match on finished wood products.

Working Day means any day between Monday and Friday, inclusive, except for days that are federal holidays.

§ 59.504 What limits must I meet?

(a) Except as provided in § 59.509, each aerosol coating product you manufacture or import for sale or use in the United States must meet the PWR limits presented in Table 1 of this subpart. These limits apply to the final aerosol coating, including the propellant. The PWR limits specified in Table 1 of this subpart are also applicable to any aerosol coating product that is assembled by adding bulk coating to aerosol containers of propellant.

(b) If a product can be included in both a general coating category and a specialty coating category, and the product meets all of the criteria of the specialty coating category, then the specialty coating limit will apply instead of the general coating limit, unless the product is a high temperature coating. High-temperature coatings that contain at least 0.5 percent by weight of an elemental metallic pigment in the formulation, including propellant, are subject to the limit specified for metallic coatings.

(c) Except as provided in paragraph (b) of this section, if anywhere on the container of any aerosol coating product subject to the limits in Table 1 of this subpart, or on any sticker or label affixed to such product, or in any sales or advertising literature, the manufacturer, importer or distributor of the product makes any representation that the product may be used as, or is

suitable for use as a product for which a lower limit is specified, then the lowest applicable limit will apply.

§ 59.505 How do I demonstrate compliance with the reactivity limits?

(a) To demonstrate compliance with the PWR limits presented in Table 1 of this subpart, you must calculate the product weighted reactivity (PWR) for each coating as described in paragraphs (a)(1) through (2) of this section:

(1) Calculate the weighted reactivity factor (WRF) for each propellant and coating component using Equation 1:

$$WRF_i = RF_i \times WF_i \qquad \text{Equation 1}$$

Where:

WRF_i = Weighted reactivity factor of component i, g O_3/g component i.
RF_i = reactivity factor of component i, g O_3/g component i, from Table 2A, 2B, or 2C.
WF_i = weight fraction of component i in the product.

(2) Calculate the product weighted reactivity (PWR) of each product using Equation 2:

$$PWR_p = (WRF)_1 + (WRF)_2 + \ldots + (WRF)_n \qquad \text{Equation 2}$$

Where:

PWR_p = Product weighted reactivity for product P, g O_3/g product.
WRF_1 = weighted reactivity factor for component 1, g O_3/g component.
WRF_2 = weighted reactivity factor for component 2, g O_3/g component.
WRF_n = weighted reactivity factor for component n, g O_3/g component.

(b) In calculating the PWR you should follow the guidelines in paragraphs (b)(1) through (b)(3) of this section.

(1) Any ingredient which does not contain carbon is assigned a RF value of 0.

(2) Any aerosol coating solid, including but not limited to resins, pigments, fillers, plasticizers, and extenders is assigned a RF of 0. These items do not have to be identified individually in the calculation.

(3) All individual compounds present in the coating in an amount equal to or exceeding 0.1 percent will be considered ingredients regardless of whether or not the ingredient is reported to the manufacturer.

(4) Any component that is a VOC but is not listed in Table 2A, 2B, or 2C of this subpart is assigned the maximum RF value for all compounds listed in Table 2A, 2B, or 2C of this subpart.

(c) You may use either formulation data (including information for both the liquid and propellant phases), CARB's Method 310 [Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products], or EPA's Method 311 [Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings] of 40 CFR part 63 to calculate the Product Weighed Reactivity. However, if there are inconsistencies between the formulation data and the Method 310 or Method 311 results, the Method 310 or 311 results will govern.

(d) If you manufacture a coating containing either an aromatic or aliphatic hydrocarbon solvent mixture, you may use the appropriate reactivity factor for that mixture provided in Table 2B or 2C of this subpart when calculating the PWR using formulation data. However, when calculating the PWR for a coating containing these mixtures using data from EPA Method 310 of 40 CFR part 63 or CARB Method 311, you must identify the individual compounds that are present in the solvent mixture and use the weight fraction of those individual compounds and their reactivity factors from Table 2A of this subpart in the calculation.

(e) If a VOC is not listed in Table 2A, 2B, or 2C of this subpart, the Reactivity Factor is assumed to be 22.04 g O_3/g VOC. Regulated entities may petition the Administrator to add a compound to Table 2A, 2B, or 2C of this subpart. Petitions should provide adequate data for the Administrator to evaluate the reactivity of the compound and assign a RF value consistent with the values for the other compounds listed in Table 2 of this subpart.

(f) In calculating the PWR value for a coating containing an aromatic hydrocarbon solvent with a boiling range different from the ranges specified in Table 2C of this subpart, you must assign a reactivity factor as described in paragraphs (f)(1) and (f)(2) of this section:

(1) If the solvent boiling point is lower than or equal to 420 degrees F, then you should use the reactivity factor in Table 2C of this subpart specified for bin 3;

(2) If the solvent boiling point is higher than 420 degrees F, then you should use the reactivity factor specified in Table 2C of this subpart for bin 24.

(g) For purposes of compliance with the PWR limits, all VOC compounds must be included in the calculation. The exemptions from the definition of VOC in § 59.100(s)(1) are inapplicable for purposes of this subpart.

§ 59.506 How do I demonstrate compliance if I manufacture multi-component kits?

(a) If you manufacture multi-component kits as defined in § 59.503, then the Kit Product Weighted Reactivity must not exceed the Total Reactivity Limit.

(b) You can calculate the Kit Product Weighted Reactivity and the Total Reactivity Limit as follows:

(1) KIT PWR = $(PWR_{(1)} \times W_1) + (PWR_{(2)} \times W_2) + \ldots + (PWR_{(n)} \times W_n)$

(2) Total Reactivity Limit = $(RL_1 \times W_1) + (RL_2 \times W_2) + \ldots + (RL_n \times W_n)$.

(3) Kit PWR ≤ Total Reactivity Limit.

Where:

W = The weight of the product contents (excluding container)
RL = the Product Weighted Reactivity Limit specified in Table 1 of this subpart.
Subscript 1 denotes the first component product in the kit
Subscript 2 denotes the second component product in the kit
Subscript n denotes any additional component product

§ 59.507 What are the labeling requirements for aerosol coatings?

(a) Aerosol coatings manufactured after January 1, 2009 must be labeled with the following information:

(1) The aerosol coating category or category code shown in Table 1 of this subpart, as defined in § 59.503;

(2) The applicable PWR limit for the product specified in Table 1 of this subpart;

(3) The day, month, and year on which the product was manufactured, or a code indicating such date;

(4) The name and a contact address for the manufacturer, distributor, or importer that is the regulated entity under this rule.

(b) The label on the product must be displayed in such a manner that it is readily observable without removing or disassembling any portion of the product container or packaging. The information may be displayed on the bottom of the container as long as it is clearly legible without removing any product packaging.

§ 59.508 What test methods must I use?

(a) Except as provided in § 59.505(c), you must use the procedures in CARB's Method 310 [Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating

Products] or EPA's Method 311 [Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings] to determine the speciated ingredients and weight percentage of each ingredient of each aerosol coating product. Method 311 should be used in conjunction with ASTM Method D3063–94 or D3074–94 for analysis of the propellant portion of the coating. Those choosing to use Method 310 should follow the procedures specified in section 5.0 of that method with the exception of section 5.3.1, which requires the analysis of the VOC content of the coating. For the purposes of this regulation, you are not required to determine the VOC content of the aerosol coating. For both Method 310 and Method 311, you must have a listing of the VOC ingredients in the coating before conducting the analysis.

(b) To determine the metal content of metallic aerosol coating products, you must use SCAQMD Method 318–95, ''Determination of Weight Percent Elemental Metal in Coatings by X-ray Diffraction.''

(c) To determine the specular gloss of flat and nonflat coatings you must use ASTM Method D–523–89 (1999).

(d) To determine the acid content of rust converters you must use ASTM Method D–1613–03, ''Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer, and Related Products.''

§ 59.509 Can I get a variance?

(a) Any regulated entity that cannot comply with the requirements of this subpart because of circumstances beyond its reasonable control may apply in writing to the Administrator for a temporary variance. The variance application must include the information specified in paragraphs (a)(1) through (a)(5) of this section.

(1) The specific products for which the variance is sought.

(2) The specific provisions of the subpart for which the variance is sought.

(3) The specific grounds upon which the variance is sought.

(4) The proposed date(s) by which the regulated entity will achieve compliance with the provisions of this subpart. This date must be no later than 3 years after the issuance of a variance.

(5) A compliance plan detailing the method(s) by which the regulated entity will achieve compliance with the provisions of this subpart.

(b) Within 30 days of receipt of the original application and within 30 days of receipt of any supplementary information that is submitted, the Administrator will send a regulated entity written notification of whether the application contains sufficient information to make a determination. If an application is incomplete, the Administrator will specify the information needed to complete the application, and provide the opportunity for the regulated entity to submit written supplementary information or arguments to the Administrator to enable further action on the application. The regulated entity must submit this information to the Administrator within 30 days of being notified that its application is incomplete.

(c) Within 60 days of receipt of sufficient information to evaluate the application, the Administrator will send a regulated entity written notification of approval or disapproval of a variance application. This 60-day period will begin after the regulated entity has been sent written notification that its application is complete.

(d) The Administrator will issue a variance if the criteria specified in paragraphs (d)(1) and (d)(2) of this section are met to the satisfaction of the Administrator.

(1) Complying with the provisions of this subpart would not be technologically or economically feasible.

(2) The compliance plan proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

(e) A variance may specify dates by which the regulated entity will achieve increments of progress towards compliance, and will specify a final compliance date by which the regulated entity will achieve compliance with this subpart.

(f) A variance will cease to be effective upon failure of the party to whom the variance was issued to comply with any term or condition of the variance.

§ 59.510 What records am I required to maintain?

(a) Beginning January 1, 2009, you are required to maintain records of the following at the location specified in § 59.511(a)(4) for each product subject to the PWR limits in Table 1 of this subpart: The product category, all product calculations, the Product Weighted Reactivity, and the weight fraction of all ingredients including: Water, solids, each VOC, and any compounds assigned a reactivity factor of zero as specified in § 59.505. If an individual VOC is present in an amount less than 0.1 percent by weight, then it does not need to be reported as an ingredient. In addition, an impurity that meets the definition provided in § 59.503 does not have to be reported as an ingredient. For each batch of each product subject to the PWR limits, you must maintain records of the date the batch was manufactured, the volume of the batch, the recipe used for formulating the batch, and the number of cans manufactured in each batch and each formulation.

(b) A copy of each notification that you submit to comply with this subpart, the documentation supporting each notification, and a copy of the label for each product.

(c) If you claim the exemption under § 59.501(e), a copy of the initial report and each annual report that you submit to EPA, and the documentation supporting such report.

(d) You must maintain all records required by this subpart for a period of 5 years.

§ 59.511 What reports must I submit?

(a) You must submit an initial notification report no later than 90 days before the compliance date or within 90 days before the date that you first manufacture, distribute, or import aerosol coatings, whichever is later. The initial report must include the information in paragraphs (a)(1) through (a)(6) of this section.

(1) Company name;

(2) Name, title, number, address, telephone number, e-mail address, and signature of certifying company official;

(3) A list of the product categories from Table 1 of this subpart that you manufacture, import or distribute;

(4) The street address of each of your facilities in the United States that is manufacturing, packaging, or importing aerosol coatings that are subject to the provisions of this subpart and the street address where compliance records are maintained for each site, if different;

(5) A description of date coding systems, clearly explaining how the date of manufacture is marked on each sales unit;

(6) For each product category, an explanation of how the manufacturer, distributor, or importer will define a batch for the purpose of the recordkeeping requirements; and

(7) A statement certifying that all products manufactured by the company that are subject to the limits in Table 1 of this subpart will be in compliance with those limits.

(b) If you change any information included in the initial notification report, including the list of aerosol categories, contact information, records location, or the date coding system reported according to paragraph (a)(5) of

this section, you must notify the Administrator of such changes within 30 days following the change.

(c) Upon 60 days written notice, you must submit to the Administrator a written report with all the information in paragraphs (c)(1) through (c)(5) of this section for each product you manufacture, distribute, or import under your name or another company's name.

(1) The brand name of the product;

(2) A copy of the product label;

(3) The owner of the trademark or brand names;

(4) The product category as defined in § 59.503;

(5) Product formulation data for each formulation manufactured including the PWR and the weight fraction of all ingredients including: Water, solids, each VOC present in an amount greater than or equal to 0.1 percent, and any compounds assigned a reactivity factor of zero.

(d) If you claim the exemption under § 59.501(e), you must submit an initial notification report no later than 90 days before the compliance date or within 90 days before the date that you first manufacture aerosol coatings, whichever is later. The initial report must include the information in paragraphs (a)(1) through (a)(6) of this section.

(1) Company name;

(2) Name, title, number, address, telephone number, e-mail address, and signature of certifying company official;

(3) A list of the product categories from Table 1 of this subpart that you manufacture;

(4) The total amount of product you manufacture in each category and the total VOC mass content of such products for the preceding calendar year;

(5) The street address of each of your facilities in the United States that is manufacturing aerosol coatings that are subject to the provisions of this subpart and the street address where compliance records are maintained for each site, if different; and

(6) A list of the States in which you sell or otherwise distribute the products you manufacture.

After the initial report, you must file an annual report for each year in which you claim an exemption from the limits of this subpart. Such annual report must be filed by March 1 of the year following the year in which you manufactured the products. The annual report shall include the same information required in paragraphs (a)(1) through (6) of this section.

§ 59.512 Addresses of EPA regional offices.

All requests (including variance requests), reports, submittals, and other communications to the Administrator pursuant to this regulation shall be submitted to the Regional Office of the EPA which serves the State or territory for the address that is listed on the aerosol coating product in question. These areas are indicated in the following list of EPA Regional Offices.

EPA Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont), Director, Office of Environmental Stewardship, Mailcode: SAA, JFK Building, Boston, MA 02203.

EPA Region II (New Jersey, New York, Puerto Rico, Virgin Islands), Director, Division of Enforcement and Compliance Assistance, 290 Broadway, New York, NY 10007–1866.

EPA Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia), Air Protection Division, 1650 Arch Street, Philadelphia, PA 19103.

EPA Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee), Director, Air, Pesticides and Toxics, Management Division, 345 Courtland Street, NE., Atlanta, GA 30365.

EPA Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin), Director, Air and Radiation Division, 77 West Jackson Blvd., Chicago, IL 60604–3507.

EPA Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas), Director, Air, Pesticides and Toxics Division, 1445 Ross Avenue, Dallas, TX 75202–2733.

EPA Region VII (Iowa, Kansas, Missouri, Nebraska), Director, Air and Toxics Division, 726 Minnesota Avenue, Kansas City, KS 66101.

EPA Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming), Director, Air and Toxics Division, 999 18th Street, 1 Denver Place, Suite 500, Denver, Colorado 80202–2405.

EPA Region IX (American Samoa, Arizona, California, Guam, Hawaii, Nevada), Director, Air Division, 75 Hawthorne Street, San Francisco, CA 94105.

EPA Region X (Alaska, Oregon, Idaho, Washington), Director, Air and Toxics Division, 1200 Sixth Avenue, Seattle, WA 98101.

§ 59.513 State authority.

The provisions in this regulation will not be construed in any manner to preclude any State or political subdivision thereof from:

(a) Adopting and enforcing any emission standard or limitation applicable to a manufacturer, distributor or importer of aerosol coatings or components in addition to the requirements of this subpart.

(b) Requiring the manufacturer, distributor or importer of aerosol coatings or components to obtain permits, licenses, or approvals prior to initiating construction, modification, or operation of a facility for manufacturing an aerosol coating or component.

§ 59.514 Circumvention.

Each manufacturer, distributor, and importer of an aerosol coating or component subject to the provisions of this subpart must not alter, destroy, or falsify any record or report, to conceal what would otherwise be noncompliance with this subpart. Such concealment includes, but is not limited to, refusing to provide the Administrator access to all required records and date-coding information, altering the PWR content of a coating or component batch, or altering the results of any required tests to determine the PWR.

§ 59.515 Incorporations by reference.

(a) The following material is incorporated by reference (IBR) in the paragraphs noted in § 59.508. These incorporations by reference were approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. These materials are incorporated as they exist on the date of approval, and notice of any changes in these materials will be published in the **Federal Register**.

(1) California Air Resources Board Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products and Reactive Organic Compounds in Aerosol Coating Products, IBR approved for § 59.508.

(2) South Coast Air Quality Management District (SCAQMD) Test Method 318–95, Determination of Weight Percent Elemental Metal in Coatings by X-ray Diffraction, IBR approved for § 59.508.

(3) ASTM Method D–523–89 (1999), Specular Gloss of Flat and Nonflat Coatings, IBR approved for § 59.508.

(4) ASTM Method D–1613–03, Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Coating, Varnish, Lacquer and Related Products, IBR approved for § 59.508.

(5) EPA Method 311—Analysis of Hazardous Air Pollutant Compounds in Paints and Coatings by Direct Injection into a Gas Chromatograph, IBR approved for § 59.508.

(b) The materials are available for inspection at the National Archives and Records Administration (NARA). For

information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html*; the Air and Radiation Docket and Information Center, U.S. EPA, 401 M Street, SW., Washington, DC; and at the EPA Library (Mail Code C267–07), U.S. EPA, Research Triangle Park, North Carolina.

(c) *Reports and Applications.* The content of all reports and applications required to be submitted to the Agency under § 59.511, § 59.509 or § 59.502 of this subpart are not entitled to protection under section 114(c) of the Clean Air Act.

§ 59.516 Availability of information and confidentiality.

(a) *Availability of information.* The availability to the public of information provided to or otherwise obtained by the Administrator under this part shall be governed by part 2 of this chapter.

(b) *Confidentiality.* All confidential business information entitled to protection under section 114(c) of the Clean Air Act that must be submitted or maintained by each regulated entity pursuant to this subpart shall be treated in accordance with 40 CFR part 2, subpart B.

Tables to Subpart E

TABLE 1 TO SUBPART E OF PART 59.—PRODUCT-WEIGHTED REACTIVITY LIMITS BY COATING CATEGORY

(g Ozone/g product)

Coating category	Category code	Reactivity limit
Clear Coatings	CCP	1.50
Flat Coatings	FCP	1.20
Fluorescent Coatings	FLP	1.75
Metallic Coatings	MCP	1.90
Non-Flat Coatings	NFP	1.40
Primers	PCP	1.20
Ground Traffic/Marking	GTM	1.20
Art Fixatives or Sealants	AFS	1.80
Auto body primers	ABP	1.55
Automotive Bumper and Trim Products	ABT	1.75
Aviation or Marine Primers	AMP	2.00
Aviation Propellor Coatings	APC	2.50
Corrosion Resistant Brass, Bronze, or Copper Coatings	CRB	1.80
Exact Match Finish—Engine Enamel	EEE	1.70
Exact Match Finish—Automotive	EFA	1.50
Exact Match Finish—Industrial	EFI	2.05
Floral Sprays	FSP	1.70
Glass Coatings	GCP	1.40
High Temperature Coatings	HTC	1.85
Hobby/Model/Craft Coatings, Enamel	HME	1.45
Hobby/Model/Craft Coatings, Lacquer	HML	2.70
Hobby/Model/Craft Coatings, Clear or Metallic	HMC	1.60
Marine Spar Varnishes	MSV	0.90
Photograph Coatings	PHC	1.00
Pleasure Craft Primers, Surfacers or Undercoaters	PCS	1.05
Pleasure Craft Topcoats	PCT	0.60
Polyolefin Adhesion Promoters	PAP	2.50
Shellac Sealers, Clear	SSC	1.00
Shellac Sealers, Pigmented	SSP	0.95
Slip-Resistant Coatings	SRC	2.45
Spatter/Multicolor Coatings	SMC	1.05
Vinyl/Fabric/Leather/Polycarbonate Coatings	VFL	1.55
Webbing/Veiling Coatings	WFC	0.85
Weld-Through Primers	WTP	1.00
Wood Stains	WSP	1.40
Wood Touch-up/Repair or Restoration Coatings	WTR	1.50

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS

Organic compound	Reactivity factor
Carbon Monoxide	0.06
Methane	0.01
Ethane	0.31
Propane	0.56
n-Butane	1.33
n-Pentane	1.54
n-Hexane	1.45
n-Heptane	1.28
n-Octane	1.11
n-Nonane	0.95
n-Decane	0.83
n-Undecane	0.74

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
n-Dodecane	0.66
n-Tridecane	0.62
n-Tetradecane	0.58
n-Pentadecane	0.56
n-C16	0.52
n-C17	0.49
n-C18	0.47
n-C19	0.44
n-C20	0.42
n-C21	0.40
n-C22	0.38
Isobutane	1.35
Isopentane	1.68
Neopentane	0.69
Branched C5 Alkanes	1.68
2,2-Dimethyl Butane	1.33
2,3-Dimethyl Butane	1.14
2-Methyl Pentane (Isohexane)	1.80
3-Methyl Pentane	2.07
Branched C6 Alkanes	1.53
2,2,3-Trimethyl Butane	1.32
2,2-Dimethyl Pentane	1.22
2,3-Dimethyl Pentane	1.55
2,4-Dimethyl Pentane	1.65
2-Methyl Hexane	1.37
3,3-Dimethyl Pentane	1.32
3-Methyl Hexane	1.86
Branched C7 Alkanes	1.63
2,2,3,3-Tetramethyl Butane	0.44
2,2,4-Trimethyl Pentane (Isooctane)	1.44
2,2-Dimethyl Hexane	1.13
2,3,4-Trimethyl Pentane	1.23
2,3-Dimethyl Hexane	1.34
2,4-Dimethyl Hexane	1.80
2,5-Dimethyl Hexane	1.68
2-Methyl Heptane	1.20
3-Methyl Heptane	1.35
4-Methyl Heptane	1.48
Branched C8 Alkanes	1.57
2,2,5-Trimethyl Hexane	1.33
2,3,5-Trimethyl Hexane	1.33
2,4-Dimethyl Heptane	1.48
2-Methyl Octane	0.96
3,3-Diethyl Pentane	1.35
3,5-Dimethyl Heptane	1.63
4-Ethyl Heptane	1.44
4-Methyl Octane	1.08
Branched C9 Alkanes	1.25
2,4-Dimethyl Octane	1.09
2,6-Dimethyl Octane	1.27
2-Methyl Nonane	0.86
3,4-Diethyl Hexane	1.20
3-Methyl Nonane	0.89
4-Methyl Nonane	0.99
4-Propyl Heptane	1.24
Branched C10 Alkanes	1.09
2,6-Dimethyl Nonane	0.95
3,5-Diethyl Heptane	1.21
3-Methyl Decane	0.77
4-Methyl Decane	0.80
Branched C11 Alkanes	0.87
2,3,4,6-Tetramethyl Heptane	1.26
2,6-Diethyl Octane	1.09
3,6-Dimethyl Decane	0.88
3-Methyl Undecane	0.70
5-Methyl Undecane	0.72
Branched C12 Alkanes	0.80
2,3,5,7-Tetramethyl Octane	1.06
3,6-Dimethyl Undecane	0.82
3,7-Diethyl Nonane	1.08
3-Methyl Dodecane	0.64

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
5-Methyl Dodecane	0.64
Branched C13 Alkanes	0.73
2,4,6,8-Tetramethyl Nonane	0.94
2,3,6-Trimethyl 4-Isopropyl Heptane	1.24
3,7-Dimethyl Dodecane	0.74
3,8-Diethyl Decane	0.68
3-Methyl Tridecane	0.57
6-Methyl Tridecane	0.62
Branched C14 Alkanes	0.67
2,4,5,6,8-Pentamethyl Nonane	1.11
2-Methyl 3,5-Diisopropyl Heptane	0.78
3,7-Dimethyl Tridecane	0.64
3,9-Diethyl Undecane	0.62
3-Methyl Tetradecane	0.53
6-Methyl Tetradecane	0.57
Branched C15 Alkanes	0.60
2,6,8-Trimethyl 4-Isopropyl Nonane	0.76
3-Methyl Pentadecane	0.50
4,8-Dimethyl Tetradecane	0.58
7-Methyl Pentadecane	0.51
Branched C16 Alkanes	0.54
2,7-Dimethyl 3,5-Diisopropyl Heptane	0.69
Branched C17 Alkanes	0.51
Branched C18 Alkanes	0.48
Cyclopropane	0.10
Cyclobutane	1.05
Cyclopentane	2.69
Cyclohexane	1.46
Isopropyl Cyclopropane	1.52
Methylcyclopentane	2.42
C6 Cycloalkanes	1.46
1,3-Dimethyl Cyclopentane	2.15
Cycloheptane	2.26
Ethyl Cyclopentane	2.27
Methylcyclohexane	1.99
C7 Cycloalkanes	1.99
C8 Bicycloalkanes	1.75
1,3-Dimethyl Cyclohexane	1.72
Cyclooctane	1.73
Ethylcyclohexane	1.75
Propyl Cyclopentane	1.91
C8 Cycloalkanes	1.75
C9 Bicycloalkanes	1.57
1,1,3-Trimethyl Cyclohexane	1.37
1-Ethyl-4-Methyl Cyclohexane	1.62
Propyl Cyclohexane	1.47
C9 Cycloalkanes	1.55
C10 Bicycloalkanes	1.29
1,3-Diethyl Cyclohexane	1.34
1,4-Diethyl Cyclohexane	1.49
1-Methyl-3-Isopropyl Cyclohexane	1.26
Butyl Cyclohexane	1.07
C10 Cycloalkanes	1.27
C11 Bicycloalkanes	1.01
1,3-Diethyl-5-Methyl Cyclohexane	1.11
1-Ethyl-2-Propyl Cyclohexane	0.95
Pentyl Cyclohexane	0.91
C11 Cycloalkanes	0.99
C12 Bicycloalkanes	0.88
C12 Cycloalkanes	0.87
1,3,5-Triethyl Cyclohexane	1.06
1-Methyl-4-Pentyl Cyclohexane	0.81
Hexyl Cyclohexane	0.75
C13 Bicycloalkanes	0.79
1,3-Diethyl-5-Propyl Cyclohexane	0.96
1-Methyl-2-Hexyl Cyclohexane	0.70
Heptyl Cyclohexane	0.66
C13 Cycloalkanes	0.78
C14 Bicycloalkanes	0.71
1,3-Dipropyl-5-Ethyl Cyclohexane	0.94
1-Methyl-4-Heptyl Cyclohexane	0.58

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
Octyl Cyclohexane	0.60
C14 Cycloalkanes	0.71
C15 Bicycloalkanes	0.69
1,3,5-Tripropyl Cyclohexane	0.90
1-Methyl-2-Octyl Cyclohexane	0.60
Nonyl Cyclohexane	0.54
C15 Cycloalkanes	0.68
1,3-Dipropyl-5-Butyl Cyclohexane	0.77
1-Methyl-4-Nonyl Cyclohexane	0.55
Decyl Cyclohexane	0.50
C16 Cycloalkanes	0.61
Ethene	9.08
Propene (Propylene)	11.58
1-Butene	10.29
C4 Terminal Alkenes	10.29
1-Pentene	7.79
3-Methyl-1-Butene	6.99
C5 Terminal Alkenes	7.79
1-Hexene	6.17
3,3-Dimethyl-1-Butene	6.06
3-Methyl-1-Pentene	6.22
4-Methyl-1-Pentene	6.26
C6 Terminal Alkenes	6.17
1-Heptene	4.56
1-Octene	3.45
C8 Terminal Alkenes	3.45
1-Nonene	2.76
C9 Terminal Alkenes	2.76
1-Decene	2.28
C10 Terminal Alkenes	2.28
1-Undecene	1.95
C11 Terminal Alkenes	1.95
C12 Terminal Alkenes	1.72
1-Dodecene	1.72
1-Tridecene	1.55
C13 Terminal Alkenes	1.55
1-Tetradecene	1.41
C14 Terminal Alkenes	1.41
1-Pentadecene	1.37
C15 Terminal Alkenes	1.37
2-Methyl Pentene (Isobutene)	6.35
2-Methyl-1-Butene	6.51
2,3-Dimethyl-1-Butene	4.77
2-Ethyl-1-Butene	5.04
2-Methyl-1-Pentene	5.18
2,3,3-Trimethyl-1-Butene	4.62
C7 Terminal Alkenes	4.56
3-Methyl-2-Isopropyl-1-Butene	3.29
cis-2-Butene	13.22
trans-2-Butene	13.91
C4 Internal Alkenes	13.57
2-Methyl-2-Butene	14.45
cis-2-Pentene	10.24
trans-2-Pentene	10.23
2-Pentenes	10.23
C5 Internal Alkenes	10.23
2,3-Dimethyl-2-Butene	13.32
2-Methyl-2-Pentene	12.28
cis-2-Hexene	8.44
cis-3-Hexene	8.22
cis-3-Methyl-2-Pentene	12.84
cis-3-Methyl-2-Hexene	13.38
trans 3-Methyl-2-Hexene	14.17
trans 4-Methyl-2-Hexene	7.88
trans-2-Hexene	8.44
trans-3-Hexene	8.16
2-Hexenes	8.44
C6 Internal Alkenes	8.44
2,3-Dimethyl-2-Hexene	10.41
cis-3-Heptene	6.96
trans-4,4-Dimethyl-2-Pentene	6.99

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
trans-2-Heptene	7.33
trans-3-Heptene	6.96
2-Heptenes	6.96
C7 Internal Alkenes	6.96
cis-4-Octene	5.94
trans-2,2-Dimethyl-3-Hexene	5.97
trans-2,5-Dimethyl-3-Hexene	5.44
trans-3-Octene	6.13
trans-4-Octene	5.90
3-Octenes	6.13
C8 Internal Alkenes	5.90
2,4,4-Trimethyl-2-Pentene	5.85
3-Nonenes	5.31
C9 Internal Alkenes	5.31
trans-4-Nonene	5.23
3,4-Diethyl-2-Hexene	3.95
cis-5-Decene	4.89
trans-4-Decene	4.50
C10 3-Alkenes	4.50
C10 Internal Alkenes	4.50
trans-5-Undecene	4.23
C11 3-Alkenes	4.23
C11 Internal Alkenes	4.23
C12 2-Alkenes	3.75
C12 3-Alkenes	3.75
C12 Internal Alkenes	3.75
trans-5-Dodecene	3.74
trans-5-Tridecene	3.38
C13 3-Alkenes	3.38
C13 Internal Alkenes	3.38
trans-5-Tetradecene	3.08
C14 3-Alkenes	3.08
C14 Internal Alkenes	3.08
trans-5-Pentadecene	2.82
C15 3-Alkenes	2.82
C15 Internal Alkenes	2.82
C4 Alkenes	11.93
C5 Alkenes	9.01
C6 Alkenes	6.88
C7 Alkenes	5.76
C8 Alkenes	4.68
C9 Alkenes	4.03
C10 Alkenes	3.39
C11 Alkenes	3.09
C12 Alkenes	2.73
C13 Alkenes	2.46
C14 Alkenes	2.28
C15 Alkenes	2.06
Cyclopentene	7.38
1-Methyl Cyclopentene	13.95
Cyclohexene	5.45
1-Methyl Cyclohexene	7.81
4-Methyl Cyclohexene	4.48
1,2-Dimethyl Cyclohexene	6.77
1,3-Butadiene	13.58
Isoprene	10.69
C6 Cyclic or Di-olefins	8.65
C7 Cyclic or Di-olefins	7.49
C8 Cyclic or Di-olefins	6.01
C9 Cyclic or Di-olefins	5.40
C10 Cyclic or Di-olefins	4.56
C11 Cyclic or Di-olefins	4.29
C12 Cyclic or Di-olefins	3.79
C13 Cyclic or Di-olefins	3.42
C14 Cyclic or Di-olefins	3.11
C15 Cyclic or Di-olefins	2.85
Cyclopentadiene	7.61
3-Carene	3.21
a-Pinene (Pine Oil)	4.29
b-Pinene	3.28
d-Limonene (Dipentene or Orange Terpene)	3.99

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
Sabinene	3.67
Terpene	3.79
Styrene	1.95
a-Methyl Styrene	1.72
C9 Styrenes	1.72
C10 Styrenes	1.53
Benzene	0.81
Toluene	3.97
Ethyl Benzene	2.79
Cumene (Isopropyl Benzene)	2.32
n-Propyl Benzene	2.20
C9 Monosubstituted Benzenes	2.20
s-Butyl Benzene	1.97
C10 Monosubstituted Benzenes	1.97
n-Butyl Benzene	1.97
C11 Monosubstituted Benzenes	1.78
C12 Monosubstituted Benzenes	1.63
C13 Monosubstituted Benzenes	1.50
m-Xylene	10.61
o-Xylene	7.49
p-Xylene	4.25
C8 Disubstituted Benzenes	7.48
m-Ethyl Toluene	9.37
p-Ethyl Toluene	3.75
o-Ethyl Toluene	6.61
C9 Disubstituted Benzenes	6.61
o-Diethyl Benzene	5.92
m-Diethyl Benzene	8.39
p-Diethyl Benzene	3.36
C10 Disubstituted Benzenes	5.92
C11 Disubstituted Benzenes	5.35
C12 Disubstituted Benzenes	4.90
C13 Disubstituted Benzenes	4.50
Isomers of Ethylbenzene	5.16
1,2,3-Trimethyl Benzene	11.26
1,2,4-Trimethyl Benzene	7.18
1,3,5-Trimethyl Benzene	11.22
C9 Trisubstituted Benzenes	9.90
Isomers of Propylbenzene	6.12
1,2,3,5-Tetramethyl Benzene	8.25
C10 Tetrasubstituted Benzenes	8.86
C10 Trisubstituted Benzenes	8.86
Isomers of Butylbenzene	5.48
C11 Pentasubstituted Benzenes	8.03
C11 Tetrasubstituted Benzenes	8.03
C11 Trisubstituted Benzenes	8.03
Isomers of Pentylbenzene	4.96
C12 Pentasubstituted Benzenes	7.33
C12 Hexasubstituted Benzenes	7.33
C12 Tetrasubstituted Benzenes	7.33
C12 Trisubstituted Benzenes	7.33
Isomers of Hexylbenzene	4.53
C13 Trisubstituted Benzenes	6.75
Indene	3.21
Indane	3.17
Naphthalene	3.26
Tetralin	2.83
Methyl Indans	2.83
Methyl Naphthalenes	4.61
1-Methyl Naphthalene	4.61
2-Methyl Naphthalene	4.61
C11 Tetralin or Indane	2.56
2,3-Dimethyl Naphthalene	5.54
C12 Disubstituted Naphthalenes	5.54
Dimethyl Naphthalenes	5.54
C12 Monosubstituted Naphthalenes	4.20
C12 Tetralin or Indane	2.33
C13 Disubstituted Naphthalenes	5.08
C13 Trisubstituted Naphthalenes	5.08
C13 Monosubstituted Naphthalenes	3.86
Acetylene	1.25

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
Methyl Acetylene	6.45
2-Butyne	16.33
Ethyl Acetylene	6.20
Methanol	0.71
Ethanol	1.69
Isopropanol (2-Propanol or Isopropyl Alcohol)	0.71
n-Propanol (n-Propyl Alcohol)	2.74
Isobutanol (Isobutyl Alcohol)	2.24
1-Butanol (n-Butyl Alcohol)	3.34
2-Butanol (s-Butyl Alcohol)	1.60
t-Butyl Alcohol	0.45
Cyclopentanol	1.96
2-Pentanol	1.74
3-Pentanol	1.73
n-Pentanol (Amyl Alcohol)	3.35
Isoamyl Alcohol (3-Methyl-1-Butanol)	2.73
2-Methyl-1-Butanol	2.60
Cyclohexanol	2.25
1-Hexanol	2.74
2-Hexanol	2.46
4-Methyl-2-Pentanol (Methyl Isobutyl Carbinol)	2.89
1-Heptanol	2.21
Dimethylpentanol (2,3-Dimethyl-1-Pentanol)	2.51
1-Octanol	2.01
2-Ethyl-1-Hexanol (Ethyl Hexyl Alcohol)	2.20
2-Octanol	2.16
3-Octanol	2.57
4-Octanol	3.07
5-Methyl-1-Heptanol	1.95
Trimethylcyclohexanol	2.17
Dimethylheptanol (2,6-Dimethyl-2-Heptanol)	1.07
2,6-Dimethyl-4-Heptanol	2.37
Menthol	1.70
Isodecyl Alcohol (8-Methyl-1-Nonanol)	1.23
1-Decanol	1.22
3,7-Dimethyl-1-Octanol	1.42
Trimethylnonanolthreoerythro; 2,6,8-Trimethyl-4Nonanol	1.55
Ethylene Glycol	3.36
Propylene Glycol	2.75
1,2-Butanediol	2.21
Glycerol (1,2,3-Propanetriol)	3.27
1,4-Butanediol	3.22
Pentaerythritol	2.42
1,2-Dihydroxy Hexane	2.75
2-Methyl-2,4-Pentanediol	1.04
2-Ethyl-1,3-Hexanediol	2.62
Dimethyl Ether	0.93
Trimethylene Oxide	5.22
1,3-Dioxolane	5.47
Dimethoxymethane	1.04
Tetrahydrofuran	4.95
Diethyl Ether	4.01
1,4-Dioxane	2.71
Alpha-Methyltetrahydrofuran	4.62
Tetrahydropyran	3.81
Ethyl Isopropyl Ether	3.86
Methyl n-Butyl Ether	3.66
Methyl t-Butyl Ether	0.78
2,2-Dimethoxypropane	0.52
Di n-Propyl Ether	3.24
Ethyl n-Butyl Ether	3.86
Ethyl t-Butyl Ether	2.11
Methyl t-Amyl Ether	2.14
Di-isopropyl Ether	3.56
Ethylene Glycol Diethyl Ether; 1,2Diethoxyethane	2.84
Acetal (1,1-Diethoxyethane)	3.68
4,4-Dimethyl-3-Oxahexane	2.03
2-Butyl Tetrahydrofuran	2.53
Di-Isobutyl Ether	1.29
Di-n-butyl Ether	3.17
2-Methoxy-1-(2-Methoxy-1-Methylethoxy)Propane	2.09

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
Di-n-Pentyl Ether	2.64
Ethylene Glycol Monomethyl Ether (2Methoxyethanol)	2.98
Propylene Glycol Monomethyl Ether (1-Methoxy2-Propanol)	2.62
2-Ethoxyethanol	3.78
2-Methoxy-1-Propanol	3.01
3-Methoxy-1-Propanol	4.01
Diethylene Glycol	3.55
Tetrahydro-2-Furanmethanol	3.54
Propylene Glycol Monoethyl Ether (1-Ethoxy-2Propanol)	3.25
Ethylene Glycol Monopropyl Ether (2Propoxyethanol)	3.52
3-Ethoxy-1-Propanol	4.24
3-Methoxy-1-Butanol	0.97
Diethylene Glycol Methyl Ether [2-(2Methoxyethoxy) Ethanol]	2.90
Propylene Glycol Monopropyl Ether (1-Propoxy2-Propanol)	2.86
Ethylene Glycol Monobutyl Ether [2Butoxyethanol]	2.90
3-Methoxy-3-Methyl-Butanol	1.74
n-Propoxypropanol	3.84
2-(2-Ethoxyethoxy) Ethanol	3.19
Dipropylene Glycol	2.48
Triethylene Glycol	3.41
Propylene Glycol t-Butyl Ether (1-tert-Butoxy-2Propanol)	1.71
2-tert-Butoxy-1-Propanol	1.81
n-Butoxy-2-Propanol	2.70
Dipropylene Glycol Methyl Ether Isomer (1Methoxy-2-[2-Hydroxypropoxy]-Propane)	2.21
Dipropylene Glycol Methyl Ether Isomer (2-[2Methoxypropoxy]-1-Propanol)	3.02
2-Hexyloxyethanol	2.45
2-(2-Propoxyethoxy) Ethanol	3.00
2,2,4-Trimethyl-1,3-Pentanediol	1.74
2-(2-Butoxyethoxy)-Ethanol	2.70
2-[2-(2-Methoxyethoxy) Ethoxy] Ethanol	2.62
Dipropylene Glycol Ethyl Ether	2.75
Ethylene Glycol 2-Ethylhexyl Ether [2-(2Ethylhexyloxy) Ethanol]	1.71
2-[2-(2-Ethoxyethoxy) Ethoxy] Ethanol	2.66
Tetraethylene Glycol	2.84
1-(Butoxyethoxy)-2-Propanol	2.08
2-(2-Hexyloxyethoxy) Ethanol	2.03
Glycol Ether dpnb (1-(2-Butoxy-1-Methylethoxy)2-Propanol)	1.96
2-[2-(2-Propoxyethoxy) Ethoxy] Ethanol	2.46
2-[2-(2-Butoxyethoxy) Ethoxy] Ethanol	2.24
Tripropylene Glycol Monomethyl Ether	1.90
2,5,8,11-Tetraoxatridecan-13-ol	2.15
3,6,9,12-Tetraoxahexadecan-1-ol	1.90
Cumene Hydroperoxide (1-Methyl-1Phenylethylhydroperoxide)	12.61
Methyl Formate	0.06
Ethyl Formate	0.52
Methyl Acetate	0.07
gamma-Butyrolactone	1.15
Ethyl Acetate	0.64
Methyl Propionate	0.71
n-Propyl Formate	0.93
Isopropyl Formate	0.42
Ethyl Propionate	0.79
Isopropyl Acetate	1.12
Methyl Butyrate	1.18
Methyl Isobutyrate	0.70
n-Butyl Formate	0.95
Propyl Acetate	0.87
Ethyl Butyrate	1.25
Isobutyl Acetate	0.67
Methyl Pivalate (2,2-Dimethyl Propanoic Acid Methyl Ester)	0.39
n-Butyl Acetate	0.89
n-Propyl Propionate	0.93
s-Butyl Acetate	1.43
t-Butyl Acetate	0.20
Butyl Propionate	0.89
Amyl Acetate	0.96
n-Propyl Butyrate	1.17
Isoamyl Acetate (3-Methylbutyl Acetate)	1.18
2-Methyl-1-Butyl Acetate	1.17
EEP Solvent (Ethyl 3-Ethoxy Propionate)	3.61
2,3-Dimethylbutyl Acetate	0.84

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
2-Methylpentyl Acetate	1.11
3-Methylpentyl Acetate	1.31
4-Methylpentyl Acetate	0.92
Isobutyl Isobutyrate	0.61
n-Butyl Butyrate	1.12
n-Hexyl Acetate (Hexyl Acetate)	0.87
Methyl Amyl Acetate (4-Methyl-2-Pentanol Acetate)	1.46
n-Pentyl Propionate	0.79
2,4-Dimethylpentyl Acetate	0.98
2-Methylhexyl Acetate	0.89
3-Ethylpentyl Acetate	1.24
3-Methylhexyl Acetate	1.01
4-Methylhexyl Acetate	0.91
5-Methylhexyl Acetate	0.79
Isoamyl Isobutyrate	0.89
n-Heptyl Acetate (Heptyl Acetate)	0.73
2,4-Dimethylhexyl Acetate	0.93
2-Ethyl-Hexyl Acetate	0.79
3,4-Dimethylhexyl Acetate	1.16
3,5-Dimethylhexyl Acetate	1.09
3-Ethylhexyl Acetate	1.03
3-Methylheptyl Acetate	0.76
4,5-Dimethylhexyl Acetate	0.86
4-Methylheptyl Acetate	0.72
5-Methylheptyl Acetate	0.73
n-Octyl Acetate	0.64
2,3,5-Trimethylhexyl Acetate	0.86
2,3-Dimethylheptyl Acetate	0.84
2,4-Dimethylheptyl Acetate	0.88
2,5-Dimethylheptyl Acetate	0.86
2-Methyloctyl Acetate	0.63
3,5-Dimethylheptyl Acetate	1.01
3,6-Dimethylheptyl Acetate	0.87
3-Ethylheptyl Acetate	0.71
4,5-Dimethylheptyl Acetate	0.96
4,6-Dimethylheptyl Acetate	0.83
4-Methyloctyl Acetate	0.68
5-Methyloctyl Acetate	0.67
n-Nonyl Acetate	0.58
3,6-Dimethyloctyl Acetate	0.88
3-Isopropylheptyl Acetate	0.71
4,6-Dimethyloctyl Acetate	0.85
3,5,7-Trimethyloctyl Acetate	0.83
3-Ethyl-6-Methyloctyl Acetate	0.80
4,7-Dimethylnonyl Acetate	0.64
Methyl Dodecanoate (Methyl Laurate)	0.53
2,3,5,7-Tetramethyloctyl Acetate	0.74
3,5,7-Trimethylnonyl Acetate	0.76
3,6,8-Trimethylnonyl Acetate	0.72
2,4,6,8-Tetramethylnonyl Acetate	0.63
3-Ethyl-6,7-Dimethylnonyl Acetate	0.76
4,7,9-Trimethyldecyl Acetate	0.55
Methyl Myristate (Methyl Tetradecanoate)	0.47
2,3,5,6,8-Pentaamethylnonyl Acetate	0.74
3,5,7,9-Tetramethyldecyl Acetate	0.58
5-Ethyl-3,6,8-Trimethylnonyl Acetate	0.77
Dimethyl Carbonate	0.06
Propylene Carbonate (4-Methyl-1,3-Dioxolan-2one)	0.25
Methyl Lactate	2.75
2-Methoxyethyl Acetate	1.18
Ethyl Lactate	2.71
Methyl Isopropyl Carbonate	0.69
Propylene Glycol Monomethyl Ether Acetate (1Methoxy-2-Propyl Acetate)	1.71
2-Ethoxyethyl Acetate	1.90
2-Methoxy-1-Propyl Acetate	1.12
Methoxypropanol Acetate	1.97
Dimethyl Succinate	0.23
Ethylene Glycol Diacetate	0.72
1,2-Propylene Glycol Diacetate	0.94
Diisopropyl Carbonate	1.04
Dimethyl Glutarate	0.51

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
Ethylene Glycol Monobutyl Ether Acetate (2Butoxyethyl Acetate)	1.67
Dimethyl Adipate	1.95
2-(2-Ethoxyethoxy) Ethyl Acetate	1.50
Dipropylene Glycol n-Propyl Ether Isomer #1	2.13
Dipropylene Glycol Methyl Ether Acetate Isomer #1	1.41
Dipropylene Glycol Methyl Ether Acetate Isomer #2	1.58
Dipropylene Glycol Methyl Ether Acetate	1.49
Glyceryl Triacetate	0.57
2-(2-Butoxyethoxy) Ethyl Acetate	1.38
Substituted C7 Ester (C12)	0.92
1-Hydroxy-2,2,4-Trimethylpentyl-3-Isobutyrate	0.92
3-Hydroxy-2,2,4-Trimethylpentyl-1-Isobutyrate	0.88
Hydroxy-2,2,4-Trimethylpentyl Isobutyrate Isomers (2,2,4-Trimethyl-1,3-Pentanediol Monoisobutyrate)	0.89
Substituted C9 Ester (C12)	0.89
Dimethyl Sebacate	0.48
Diisopropyl Adipate	1.42
Ethylene Oxide	0.05
Propylene Oxide	0.32
1,2-Epoxybutane (Ethyl Oxirane)	1.02
Formic Acid	0.08
Acetic Acid	0.71
Glycolic Acid (Hydroxyacetic Acid)	2.67
Peracetic Acid (Peroxyacetic Acid)	12.62
Acrylic Acid	11.66
Propionic Acid	1.16
Methacrylic Acid	18.78
Isobutyric Acid	1.22
Butanoic Acid	1.78
Malic Acid	7.51
3-Methylbutanoic Acid	4.26
Adipic Acid	3.37
2-Ethyl Hexanoic Acid	4.41
Methyl Acrylate	12.24
Vinyl Acetate	3.26
2-Methyl-2-Butene-3-ol (1,2-Dimethylpropyl-1en-1-ol)	5.12
Ethyl Acrylate	8.78
Methyl Methacrylate	15.84
Hydroxypropyl Acrylate	5.56
n-Butyl Acrylate	5.52
Isobutyl Acrylate	5.05
Butyl Methacrylate	9.09
Isobutyl Methacrylate	8.99
Isobornyl Methacrylate	8.64
a-Terpineol	5.16
2-Ethyl-Hexyl Acrylate	2.42
Furan	16.54
Formaldehyde	8.97
Acetaldehyde	6.84
Propionaldehyde	7.89
2-Methylpropanal	5.87
Butanal	6.74
C4 Aldehydes	6.74
2,2-Dimethylpropanal (Pivaldehyde)	5.40
3-Methylbutanal (Isovaleraldehyde)	5.52
Pentanal (Valeraldehyde)	5.76
C5 Aldehydes	5.76
Glutaraldehyde	4.79
Hexanal	4.98
C6 Aldehydes	4.98
Heptanal	4.23
C7 Aldehydes	4.23
2-Methyl-Hexanal	3.97
Octanal	3.65
C8 Aldehydes	3.65
Glyoxal	14.22
Methyl Glyoxal	16.21
Acrolein	7.60
Crotonaldehyde	10.07
Methacrolein	6.23
Hydroxy Methacrolein	6.61
Benzaldehyde	0.00

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
Tolualdehyde	0.00
Acetone	0.43
Cyclobutanone	0.68
Methyl Ethyl Ketone (2-Butanone)	1.49
Cyclopentanone	1.43
C5 Cyclic Ketones	1.43
Methyl Propyl Ketone (2-Pentanone)	3.07
3-Pentanone	1.45
C5 Ketones	3.07
Methyl Isopropyl Ketone	1.64
2,4-Pentanedione	1.02
Cyclohexanone	1.61
C6 Cyclic Ketones	1.61
Methyl Isobutyl Ketone (4-Methyl-2-Pentanone)	4.31
Methyl n-Butyl Ketone (2-Hexanone)	3.55
Methyl t-Butyl Ketone	0.78
C6 Ketones	3.55
C7 Cyclic Ketones	1.41
Methyl Amyl Ketone (2-Heptanone)	2.80
2-Methyl-3-Hexanone	1.79
Di-Isopropyl Ketone	1.63
C7 Ketones	2.80
3-Methyl-2-Hexanone	2.81
Methyl Isoamyl Ketone (5-Methyl-2-Hexanone)	2.10
C8 Cyclic Ketones	1.25
2-Octanone	1.66
C8 Ketones	1.66
C9 Cyclic Ketones	1.13
2-Propyl Cyclohexanone	1.71
4-Propyl Cyclohexanone	2.08
2-Nonanone	1.30
Di-Isobutyl Ketone (2,6-Dimethyl-4-Heptanone)	2.94
C9 Ketones	1.30
C10 Cyclic Ketones	1.02
2-Decanone	1.06
C10 Ketones	1.06
2,6,8-Trimethyl-4-Nonanone; Isobutyl Heptyl Ketone	1.86
Biacetyl	20.73
Methylvinyl ketone	8.73
Mesityl Oxide (2-Methyl-2-Penten-4-one)	17.37
Isophorone (3,5,5-Trimethyl-2-Cyclohexenone)	10.58
1-Nonene-4-one	3.39
Hydroxy Acetone	3.08
Dihydroxyacetone	4.02
Methoxy Acetone	2.14
Diacetone Alcohol (4-Hydroxy-4-Methyl-2Pentanone)	0.68
Phenol	1.82
C7 Alkyl Phenols	2.34
m-Cresol	2.34
p-Cresol	2.34
o-Cresol	2.34
C8 Alkyl Phenols	2.07
C9 Alkyl Phenols	1.86
C10 Alkyl Phenols	1.68
C11 Alkyl Phenols	1.54
C12 Alkyl Phenols	1.42
2-Phenoxyethanol; Ethylene Glycol Phenyl Ether	3.61
1-Phenoxy-2-Propanol	1.73
Nitrobenzene	0.07
Para Toluene Isocyanate	0.93
Toluene Diisocyanate (Mixed Isomers)	0.00
Methylene Diphenylene Diisocyanate	0.79
N-Methyl Acetamide	19.70
Dimethyl Amine	9.37
Ethyl Amine	7.80
Trimethyl Amine	7.06
Triethyl Amine	16.60
Diethylenetriamine	13.03
Ethanolamine	5.97
Dimethylaminoethanol	4.76
Monoisopropanol Amine (1-Amino-2-Propanol)	13.42

TABLE 2A TO SUBPART E OF PART 59.—REACTIVITY FACTORS—Continued

Organic compound	Reactivity factor
2-Amino-2-Methyl-1-Propanol	15.08
Diethanol Amine	4.05
Triethanolamine	2.76
Methyl Pyrrolidone (N-Methyl-2-Pyrrolidone)	2.56
Morpholine	15.43
Nitroethane	12.79
Nitromethane	7.86
1-Nitropropane	16.16
2-Nitropropane	16.16
Dexpanthenol (Pantothenylol)	9.35
Methyl Ethyl Ketoxime (Ethyl Methyl Ketone Oxime)	22.04
Hydroxyethylethylene Urea	14.75
Methyl Chloride	0.03
Methylene Chloride (Dichloromethane)	0.07
Methyl Bromide	0.02
Chloroform	0.03
Carbon Tetrachloride	0.00
Methylene Bromide	0.00
Vinyl Chloride	2.92
Ethyl Chloride	0.25
1,1-Dichloroethane	0.10
1,2-Dichloroethane	0.10
Ethyl Bromide	0.11
1,1,1-Trichloroethane	0.00
1,1,2-Trichloroethane	0.06
1,2-Dibromoethane	0.05
n-Propyl Bromide	0.35
n-Butyl Bromide	0.60
trans-1,2-Dichloroethene	0.81
Trichloroethylene	0.60
Perchloroethylene	0.04
2-(Chloro-Methyl)-3-Chloro Propene	1.13
Monochlorobenzene	0.36
p-Dichlorobenzene	0.20
Benzotrifluoride	0.26
PCBTF (p-Trifluoromethyl-Cl-Benzene)	0.11
HFC–134a (1,1,1,2-Tetrafluoroethane)	0.00
HFC–152a (1,1-Difluoroethane)	0.00
Dimethyl Sulfoxide	6.90
Unspeciated C6 Alkanes	1.48
Unspeciated C7 Alkanes	1.79
Unspeciated C8 Alkanes	1.64
Unspeciated C9 Alkanes	2.13
Unspeciated C10 Alkanes	1.16
Unspeciated C11 Alkanes	0.90
Unspeciated C12 Alkanes	0.81
Unspeciated C13 Alkanes	0.73
Unspeciated C14 Alkanes	0.67
Unspeciated C15 Alkanes	0.61
Unspeciated C16 Alkanes	0.55
Unspeciated C17 Alkanes	0.52
Unspeciated C18 Alkanes	0.49
Unspeciated C10 Aromatics	5.48
Unspeciated C11 Aromatics	4.96
Unspeciated C12 Aromatics	4.53
Base ROG Mixture	3.71
Alkane, Mixed—Predominantly (Minimally 94%) C13–14	0.67
Oxo-Hexyl Acetate	1.03
Oxo-Heptyl Acetate	0.97
Oxo-Octyl Acetate	0.96
Oxo-Nonyl Acetate	0.85
Oxo-Decyl Acetate	0.83
Oxo-Dodecyl Acetate	0.72
Oxo-Tridecyl Acetate	0.67

TABLE 2B TO SUBPART E OF PART 59.—REACTIVITY FACTORS FOR ALIPHATIC HYDROCARBON SOLVENT MIXTURES

Bin	Average Boiling Point* (degrees F)	Criteria	Reactivity factor
1	80–205	Alkanes (<2% Aromatics)	2.08
2	80–205	N– & Iso-Alkanes (≥90% and <2% Aromatics)	1.59
3	80–205	Cyclo-Alkanes (≥90% and <2% Aromatics)	2.52
4	80–205	Alkanes (2 to <8% Aromatics)	2.24
5	80–205	Alkanes (8 to 22% Aromatics)	2.56
6	>205–340	Alkanes (<2% Aromatics)	1.41
7	>205–340	N– & Iso-Alkanes (≥90% and <2% Aromatics)	1.17
8	>205–340	Cyclo-Alkanes (≥90% and <2% Aromatics)	1.65
9	>205–340	Alkanes (2 to <8% Aromatics)	1.62
10	>205–340	Alkanes (8 to 22% Aromatics)	2.03
11	>340–460	Alkanes (<2% Aromatics)	0.91
12	>340–460	N– & Iso-Alkanes (≥90% and <2% Aromatics)	0.81
13	>340–460	Cyclo-Alkanes (≥90% and <2% Aromatics)	1.01
14	>340–460	Alkanes (2 to <8% Aromatics)	1.21
15	>340–460	Alkanes (8 to 22% Aromatics)	1.82
16	>460–580	Alkanes (<2% Aromatics)	0.57
17	>460–580	N– & Iso-Alkanes (≥90% and <2% Aromatics)	0.51
18	>460–580	Cyclo-Alkanes (>90% and <2% Aromatics)	0.63
19	>460–580	Alkanes (2 to <8% Aromatics)	0.88
20	>460–580	Alkanes (8 to 22% Aromatics)	1.49

* Average Boiling Point = (Initial Boiling Point + Dry Point)/2(b) Aromatic Hydrocarbon Solvents

TABLE 2C TO SUBPART E OF PART 63.—REACTIVITY FACTORS FOR AROMATIC HYDROCARBON SOLVENT MIXTURES

Bin	Boiling range (degrees F)	Criteria	Reactivity factor
21	280–290	Aromatic Content (≥98%)	7.37
22	320–350	Aromatic Content (≥98%)	7.51
23	355–420	Aromatic Content (≥98%)	8.07
24	450–535	Aromatic Content (≥98%)	5.00

[FR Doc. E7–13108 Filed 7–13–07; 8:45 am]

BILLING CODE 6560–50–P

Federal Register

Monday,
July 16, 2007

Part V

The President

Proclamation 8161—Parents' Day, 2007

Federal Register
Vol. 72, No. 135
Monday, July 16, 2007

Presidential Documents

Title 3—

The President

Proclamation 8161 of July 12, 2007

Parents' Day, 2007

By the President of the United States of America

A Proclamation

On Parents' Day, America honors our mothers and fathers for their extraordinary devotion and for the great sacrifices they make to provide a hopeful and promising future for their children.

The guidance and unconditional love of parents help create a nurturing environment so children can grow and reach their full potential. Parents work to impart to their children the strength and determination to follow their dreams and the courage to do what is right. They shape the character of their children by sharing their wisdom and setting a positive example. As role models, parents also instill the values and principles that help prepare children to be responsible adults and good citizens.

My Administration is committed to strengthening American families by supporting Federal, State, and faith-based and community programs that promote healthy marriages and responsible parenting. Parents are a child's first teachers, and we recognize their critical role in helping children do well in school. My Administration is committed to helping parents and schools ensure that every child has the best opportunity to learn and succeed.

On Parents' Day, we pay tribute to mothers and fathers and celebrate the special bonds of love between parents and their children. We also express our deep gratitude to parents who serve in the Armed Forces and those whose sons and daughters have answered the call to defend our country. Our Nation is grateful for their honorable service and for the sacrifices family members make as their loved ones work to advance the cause of freedom.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States and consistent with Public Law 103–362, as amended, do hereby proclaim Sunday, July 22, 2007, as Parents' Day. I call upon citizens, private organizations, and governmental bodies at all levels to engage in activities and educational efforts that recognize, support, and honor parents, and I encourage American sons and daughters to convey their love, respect, and appreciation to their parents.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of July, in the year of our Lord two thousand seven, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 07–3485
Filed 7–13–07; 11:07 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 72, No. 135

Monday, July 16, 2007

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal_register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JULY

35907–36336 2
36337–36588 3
36589–36858 5
36859–37096 6
37097–37418 9
37419–37628 10
37629–37990 11
37991–38462 12
38463–38746 13
38747–38996 16

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8158 36587
8159 37095
8160 38461
8161 38995
Executive Orders:
13338 36587
13381 (Amended by 13436) 36337
13436 36337
13437 36339
Administrative Orders:
Memorandums:
Memorandum of June 26, 2007 36335
Memorandum of June 28, 2007 35907
Memorandum of July 3, 2007 37627
Presidential Determinations:
No. 2007-23 of June 28, 2007 37419
No. 2007-24 of June 28, 2007 37421
No. 2007-25 of July 5, 2007 38747

6 CFR

5 ..... 38749, 38750

7 CFR

2 36859
301 35909
305 35909
353 35915
922 37991
924 38463
925 37423
928 38465
959 37993
1170 36341
1214 38467
1220 37995
Proposed Rules:
305 36629
915 38037
922 38496
981 36900
984 38498
1767 38511

9 CFR

309 38700
310 38700
318 38700
331 38467
381 38467

10 CFR

72 38468
Proposed Rules:
50 ..... 37470, 38030
71 37471

12 CFR

26 38753
205 36589
212 38753
348 38753
563f 38753
Proposed Rules:
1 36550
2 36550
3 36550
4 36550
5 36550
7 36550
9 36550
10 36550
11 36550
12 36550
16 36550
19 36550
21 36550
22 36550
23 36550
24 36550
26 36550
27 36550
28 36550
31 36550
32 36550
34 36550
37 36550
40 36550
701 37122

14 CFR

25 37425
39 ..... 36860, 36861, 36863, 36866, 37997, 37999, 38000, 38002, 38004, 38006
71 ..... 36345, 36346, 36593, 36868, 37430, 37431, 37629
73 35917
97 ..... 38469, 38755
Proposed Rules:
25 38732
39 ..... 36370, 36373, 36378, 36380, 36385, 36391, 36901, 36905, 36907, 36912, 36914, 36916, 36920, 36925, 37122, 37124, 37126, 37130, 37132, 37472, 37475, 37477, 37479, 37484, 38527, 38529, 38532, 38797, 38800
71 ..... 36397, 37487, 37488, 37489, 37490
250 37491

15 CFR

4 36594
285 36347

744.....38008

17 CFR

3.....35918
240.....36348
242.....36348
Proposed Rules:
210.....37962
230 .....36822, 37376, 37962
232.....37376
239 .....36822, 37376, 37962
240.....37608
249.....37962

18 CFR

38.....38757
157.....37431
284.....38757
Proposed Rules:
35.....36276

19 CFR

12.....38470

20 CFR

402.....36359
Proposed Rules:
404.....37496
405.....37496
416.....37496

21 CFR

510.....36595
520.....37436
524.....36595
558.....37437
880.....36360
1300.....37439
1309.....35920
1310.....35920
1315.....37439
Proposed Rules:
2.....37137
878.....36398

22 CFR

Proposed Rules:
201.....37139

24 CFR

Proposed Rules:
203.....37500

26 CFR

1 .....36869, 38474, 38475, 38477, 38767
31.....38478
53.....36871
54.....36871
301.....36869
602.....38767
Proposed Rules:
1 .....36927, 37155, 38033, 38802
31.....38534
53.....36927
54.....36927
301.....36927, 38534

28 CFR

552.....37630
Proposed Rules:
75.....38033

29 CFR

2.....37097
11.....37097
14.....37097
16.....37097
20.....37097
22.....37097
70.....37097
71.....37097
75.....37097
90.....37097
95.....37097
96.....37097
97.....37097
98.....37097
99.....37097
102.....38778
404.....36106, 38484
1625.....36873
4022.....38484
4044.....38484
Proposed Rules:
1910.....37155, 37501

30 CFR

946.....36595
Proposed Rules:
946.....36632

32 CFR

197.....36875
841.....35931
989.....37105
Proposed Rules:
903.....38039

33 CFR

3.....36316
20.....36316
100 .....36316, 36598, 37454, 38783
104.....36316
105.....38486
110.....36316
135.....36316
151.....36316
160.....36316
162.....36316
165 .....36316, 36881, 38010, 38012, 38015, 38488, 38785
Proposed Rules:
100 .....38804, 38806, 38808

36 CFR

Proposed Rules:
1193.....36401
1194.....36401

37 CFR

202.....36883

38 CFR

Proposed Rules:
17.....38042

39 CFR

20.....37454

40 CFR

51.....38787
52 .....36599, 36601, 36889, 36892, 38787, 38920
62.....36605, 37632
63.....36363, 38864
81 .....36601, 36889, 36892, 36895
122.....37107
125.....37107
131.....37109
180 .....37633, 37641, 37646
300.....36607
Proposed Rules:
49.....37156
50.....37682, 37818
51 .....37156, 38538, 38952
52 .....36402, 36404, 36406, 37683, 38045, 38051
59.....37582, 38952
60.....37157
62.....36413
63.....36415
78.....38538
81.....37683
97.....36406, 38538
131.....37161
300.....36634

42 CFR

83.....37455
100.....36610
412.....36612, 36613
413.....36612, 36613
435.....38662
436.....38662
440.....38662
441.....38662
457.....38662
483.....38662
Proposed Rules:
409.....38122
410.....38122
411.....38122
413.....38122
414.....38122
415.....38122
418.....38122
423.....38122
424.....38122
482.....38122
484.....38122
485.....38122
491.....38122

44 CFR

65 .....35932, 35934, 35937, 38488
67 .....35938, 37115, 38492
Proposed Rules:
67 .....35947, 35949, 35956, 37162, 37164, 38539, 38543

46 CFR

1.....36316
2.....36316
4.....36316
5.....36316
16.....36316
28.....36316
45.....36316
50.....36316
67.....36316
115.....36316
122.....36316
153.....36316
169.....36316
170.....36316
176.....36316
185.....36316

47 CFR

12.....37655
22.....38793
73 .....36616, 37673, 37674
Proposed Rules:
Ch. 1.....38055
73.....36635, 37310

48 CFR

Ch. 1.....36852, 36858
4.....36852
17.....36852
19.....36852
52.....36852
6101.....36794
6102.....36794
6103.....36794
6104.....36794
6105.....36794
9903.....36367
Proposed Rules:
212.....35960
225.....35960
3036.....38548

49 CFR

350.....36760
375.....36760
383.....36760
384.....36760
385.....36760
386.....36760
390.....36760
395.....36760
571.....38017
Proposed Rules:
Ch. 1.....38810
172.....35961

50 CFR

16.....37459
17.....37346
229.....37674
648.....37676, 38025
660.....36617
679 .....36896, 37677, 37678, 38794, 38795, 38796
Proposed Rules:
17 .....36635, 36939, 36942, 37695
216.....37404
224.....37697

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT JULY 16, 2007

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Papayas grown in Hawaii; published 7-13-07

Prunes (fresh) grown in Washington and Oregon; published 7-13-07

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Acrylic and modacrylic fibers production, carbon black production, lead acid battery manufacturing, wood preserving, etc.; published 7-16-07

Air quality implementation plans; approval and promulgation; various States:

Virginia; published 7-16-07

FEDERAL DEPOSIT INSURANCE CORPORATION

Depository Institution Management Intrlocks Act; implementation; published 7-16-07

FEDERAL RESERVE SYSTEM

Depository Institution Management Interlocks Act; implementation; published 7-16-07

HOMELAND SECURITY DEPARTMENT

U.S. Customs and Border Protection

Merchandise, special classes:

Import restrictions—

Cyprus; pre-classical and classical archaeological objects and Byzantine Period ecclesiastical and ritual ethnological material; published 7-13-07

HOMELAND SECURITY DEPARTMENT

Privacy Act; implementation; published 7-16-07

LABOR DEPARTMENT

Employment and Training Administration

Aliens; permanent employment in U.S.; labor certification:

Fraud and abuse incentives and opportunities reduction; program integrity enhancement; published 5-17-07

NATIONAL LABOR RELATIONS BOARD

Privacy Act; implementation; published 7-16-07

PERSONNEL MANAGEMENT OFFICE

Pay administration:

Locality-based comparability payments and evacuation payments; published 6-15-07

POSTAL SERVICE

Postage meters:

Manufacture and distribution; authority requirements; published 6-15-07

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Boeing; published 6-11-07

Dassault; published 6-11-07

Diamond Aircraft Industries GmbH; published 6-11-07

Hawker Beechcraft Corp.; published 6-11-07

Viking Air Ltd.; published 6-11-07

Standard instrument approach procedures; published 7-16-07

TREASURY DEPARTMENT

Comptroller of the Currency

Depository Institution Management Interlocks Act; implementation; published 7-16-07

TREASURY DEPARTMENT

Merchandise, special classes:

Import restrictions—

Cyprus; pre-classical and classical archaeological objects and Byzantine Period ecclesiastical and ritual ethnological material; published 7-13-07

TREASURY DEPARTMENT

Thrift Supervision Office

Depository Institution Management Interlocks Acy; implementation; published 7-16-07

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Apricots grown in Washington; comments due by 7-23-07; published 7-13-07 [FR E7-13581]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:

Citrus canker; comments due by 7-23-07; published 6-21-07 [FR E7-12041]

AGRICULTURE DEPARTMENT

Federal Crop Insurance Corporation

Crop insurance regulations:

Tobacco crop insurance provisions; comments due by 7-23-07; published 5-23-07 [FR E7-09775]

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Americans with Disabilities Act; implementation:

Accessibility guidelines—

Emergency transportable housing Federal advisory committee; intent to establish; comments due by 7-25-07; published 6-25-07 [FR E7-12205]

Passenger Vessel Emergency Alarms Advisory Committee; intent to establish; comments due by 7-25-07; published 6-25-07 [FR E7-12196]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Northeastern United States fisheries—

Emergency closure due to presence of toxin causing paralytic shellfish poisoning; comments due by 7-27-07; published 6-27-07 [FR E7-12432]

West Coast States and Western Pacific fisheries—

Highly migratory species; comments due by 7-27-07; published 6-27-07 [FR E7-12430]

International fisheries regulations:

Nations whose fishing vessels are engaged in illegal, unreported, or unregulated fishing or bycatch of protected living marine resources; certification; comments due by 7-26-07; published 6-11-07 [FR E7-11254]

Marine mammals:

Taking and importing—

U.S. Navy operations of surveillance towed array sensor systems low frequency active sonar; comments due by 7-24-07; published 7-9-07 [FR 07-03329]

Ocean and coastal resource management:

Marine sanctuaries—

Channel Islands National Marine Sanctuary, CA; comments due by 7-23-07; published 5-24-07 [FR E7-10096]

COMMODITY FUTURES TRADING COMMISSION

Special calls for information; comments due by 7-23-07; published 6-22-07 [FR E7-11984]

Traders reports:

Books and records maintenance; comments due by 7-23-07; published 6-22-07 [FR E7-12045]

DEFENSE DEPARTMENT

Defense Acquisition Regulations System

Acquisition regulations:

Contract profit/fee policies; comments due by 7-23-07; published 5-22-07 [FR E7-09754]

Leasing; vessels, aircraft, and combat vehicles; comments due by 7-23-07; published 5-22-07 [FR E7-09744]

DEFENSE DEPARTMENT

Grants and agreements:

Nonprocurement debarment and suspension; OMB guidance, implementation; comments due by 7-26-07; published 6-26-07 [FR 07-03086]

EDUCATION DEPARTMENT

Special education and rehabilitative services:

Infants and Toddlers with Disabilities Early Intervention Program; comments due by 7-23-07; published 5-9-07 [FR 07-02140]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; State authority delegations:

Arizona and Nevada; comments due by 7-23-07; published 6-21-07 [FR E7-12044]

Air quality implementation plans:

Preparation, adoption, and submittal—
Interstate ozone transport and nitrogen oxides reduction; petition for reconsideration findings for Georgia; comment request; comments due by 7-23-07; published 6-8-07 [FR E7-11036]
Air quality implementation plans; approval and promulgation; various States:
Delaware; comments due by 7-23-07; published 6-21-07 [FR E7-12051]
Idaho and Washington; comments due by 7-26-07; published 6-26-07 [FR E7-12234]
Iowa; comments due by 7-26-07; published 6-26-07 [FR E7-12237]
Pesticide programs:
Tolerance reassessment decisions—
Methamidophos, etc.; comments due by 7-23-07; published 5-23-07 [FR 07-02561]
Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
Crop Grouping Program; expansion; comments due by 7-23-07; published 5-23-07 [FR E7-09595]
Famoxadone; comments due by 7-23-07; published 5-23-07 [FR E7-09823]
Propanil, etc.; comments due by 7-23-07; published 5-23-07 [FR E7-09912]

FEDERAL TRADE COMMISSION

Industry guides:
Fuel economy advertising for new automobiles; comments due by 7-23-07; published 5-9-07 [FR E7-08886]
Select leather and imitation leather products; comments due by 7-23-07; published 5-23-07 [FR E7-09965]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:
Medicare Advantage and Part D prescription drug contract determinations, appeals, and intermediate sanctions processes; revisions; comments due by 7-24-07; published 5-25-07 [FR 07-02579]
Prescription drug benefit; policy and technical changes; comments due by 7-24-07; published 5-25-07 [FR 07-02577]

HEALTH AND HUMAN SERVICES DEPARTMENT

Privacy Act regulations:
Systems of records exemptions; comments due by 7-24-07; published 5-25-07 [FR E7-10143]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Anchorage regulations:
Maine; comments due by 7-23-07; published 5-24-07 [FR E7-09968]
Merchant marine officers and seamen:
Large passenger vessels; crew requirements; comments due by 7-23-07; published 4-24-07 [FR E7-07696]
Oceanographic research vessels:
Alternative Compliance Program; comments due by 7-23-07; published 5-22-07 [FR E7-09840]

INTERIOR DEPARTMENT

Land Management Bureau

Minerals management:
Oil and gas leasing—
National Petroleum Reserve, AK; Federal leases; comments due by 7-23-07; published 5-22-07 [FR E7-09696]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
Critical habitat designations—
Marbled murrelet; comments due by 7-26-07; published 6-26-07 [FR 07-03134]

LABOR DEPARTMENT

Employee Benefits Security Administration

Employee Retirement Income Security Act:
Participants in individual account plans; fee and expense disclosures; comments due by 7-24-07; published 4-25-07 [FR E7-07884]

SECURITIES AND EXCHANGE COMMISSION

Securities:
Significant deficiency; definition; comments due by 7-23-07; published 6-27-07 [FR E7-12300]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
Boeing; comments due by 7-23-07; published 5-22-07 [FR E7-09799]
Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 7-25-07; published 6-25-07 [FR E7-12224]
Goodrich; comments due by 7-23-07; published 6-8-07 [FR E7-10992]
Airworthiness standards:
Special conditions—
Adam Aircraft Model A700 airplane; comments due by 7-25-07; published 6-25-07 [FR E7-12121]
Boeing Model 787-8 airplane; comments due by 7-26-07; published 6-11-07 [FR E7-11153]
Boeing Model 787-8 airplane; comments due by 7-26-07; published 6-11-07 [FR E7-11150]
Transport category airplanes—
Airframe ice protection system; activation; comments due by 7-25-07; published 4-26-07 [FR E7-07944]
Class E airspace; comments due by 7-27-07; published 6-27-07 [FR 07-03130]
Jet routes; comments due by 7-23-07; published 6-7-07 [FR E7-11046]

TREASURY DEPARTMENT

Internal Revenue Service

Estate and gift taxes:
Post-death events; section 2053 guidance; comments due by 7-23-07; published 4-23-07 [FR E7-07601]

VETERANS AFFAIRS DEPARTMENT

Compensation, pension, burial, and related benefits:
General provisions; reorganization and revision; comments due by 7-23-07; published 5-22-07 [FR E7-09542]

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 "PLUS" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

S. 1704/P.L. 110–44

First Higher Education Extension Act of 2007 (July 3, 2007; 121 Stat. 238)

S. 229/P.L. 110–45

To redesignate a Federal building in Albuquerque, New Mexico, as the "Raymond G. Murphy Department of Veterans Affairs Medical Center". (July 5, 2007; 121 Stat. 239)

S. 801/P.L. 110–46

To designate a United States courthouse located in Fresno, California, as the "Robert E. Coyle United States Courthouse". (July 5, 2007; 121 Stat. 240)

Last List July 5, 2007

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.

CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

The CFR is available free on-line through the Government Printing Office's GPO Access Service at http://www.gpoaccess.gov/cfr/index.html. For information about GPO Access call the GPO User Support Team at 1-888-293-6498 (toll free) or 202-512-1530.

The annual rate for subscription to all revised paper volumes is $1389.00 domestic, $555.60 additional for foreign mailing.

Mail orders to the Superintendent of Documents, Attn: New Orders, P.O. Box 371954, Pittsburgh, PA 15250–7954. All orders must be accompanied by remittance (check, money order, GPO Deposit Account, VISA, Master Card, or Discover). Charge orders may be telephoned to the GPO Order Desk, Monday through Friday, at **(202) 512–1800** from 8:00 a.m. to 4:00 p.m. eastern time, or FAX your charge orders to **(202) 512-2250**.

Title	Stock Number	Price	Revision Date
1	(869–062–00001–4)	5.00	[4] Jan. 1, 2007
2	(869–062–00002–2)	5.00	Jan. 1, 2007
3 (2006 Compilation and Parts 100 and 102)	(869–062–00003–1)	35.00	[1] Jan. 1, 2007
4	(869–062–00004–9)	10.00	[5] Jan. 1, 2007
5 Parts:			
1–699	(869–062–00005–7)	60.00	Jan. 1, 2007
700–1199	(869–062–00006–5)	50.00	Jan. 1, 2007
1200–End	(869–062–00007–3)	61.00	Jan. 1, 2007
6	(869–062–00008–1)	10.50	Jan. 1, 2007
7 Parts:			
1–26	(869–062–00009–0)	44.00	Jan. 1, 2007
27–52	(869–062–00010–3)	49.00	Jan. 1, 2007
53–209	(869–062–00011–1)	37.00	Jan. 1, 2007
210–299	(869–062–00012–0)	62.00	Jan. 1, 2007
300–399	(869–062–00013–8)	46.00	Jan. 1, 2007
400–699	(869–062–00014–6)	42.00	Jan. 1, 2007
700–899	(869–062–00015–4)	43.00	Jan. 1, 2007
900–999	(869–062–00016–2)	60.00	Jan. 1, 2007
1000–1199	(869–062–00017–1)	22.00	Jan. 1, 2007
1200–1599	(869–062–00018–9)	61.00	Jan. 1, 2007
1600–1899	(869–062–00019–7)	64.00	Jan. 1, 2007
1900–1939	(869–062–00020–1)	31.00	Jan. 1, 2007
1940–1949	(869–062–00021–9)	50.00	[5] Jan. 1, 2007
1950–1999	(869–062–00022–7)	46.00	Jan. 1, 2007
2000–End	(869–062–00023–5)	50.00	Jan. 1, 2007
8	(869–062–00024–3)	63.00	Jan. 1, 2007
9 Parts:			
1–199	(869–062–00025–1)	61.00	Jan. 1, 2007
200–End	(869–062–00026–0)	58.00	Jan. 1, 2007
10 Parts:			
1–50	(869–062–00027–8)	61.00	Jan. 1, 2007
51–199	(869–062–00028–6)	58.00	Jan. 1, 2007
200–499	(869–062–00029–4)	46.00	Jan. 1, 2007
500–End	(869–066–00030–8)	62.00	Jan. 1, 2007
11	(869–062–00031–6)	41.00	Jan. 1, 2007
12 Parts:			
1–199	(869–062–00032–4)	34.00	Jan. 1, 2007
200–219	(869–062–00033–2)	37.00	Jan. 1, 2007
220–299	(869–062–00034–1)	61.00	Jan. 1, 2007
300–499	(869–062–00035–9)	47.00	Jan. 1, 2007
500–599	(869–062–00036–7)	39.00	Jan. 1, 2007
600–899	(869–062–00037–5)	56.00	Jan. 1, 2007
900–End	(869–062–00038–3)	50.00	Jan. 1, 2007
13	(869–062–00039–1)	55.00	Jan. 1, 2007
14 Parts:			
1–59	(869–062–00040–5)	63.00	Jan. 1, 2007
60–139	(869–062–00041–3)	61.00	Jan. 1, 2007
140–199	(869–062–00042–1)	30.00	Jan. 1, 2007
200–1199	(869–062–00043–0)	50.00	Jan. 1, 2007
1200–End	(869–062–00044–8)	45.00	Jan. 1, 2007
15 Parts:			
0–299	(869–062–00045–6)	40.00	Jan. 1, 2007
300–799	(869–062–00046–4)	60.00	Jan. 1, 2007
800–End	(869–062–00047–2)	42.00	Jan. 1, 2007
16 Parts:			
0–999	(869–062–00048–1)	50.00	Jan. 1, 2007
1000–End	(869–062–00049–9)	60.00	Jan. 1, 2007
17 Parts:			
1–199	(869–062–00051–1)	50.00	Apr. 1, 2007
200–239	(869–060–00052–6)	60.00	Apr. 1, 2006
240–End	(869–060–00053–4)	62.00	Apr. 1, 2006
18 Parts:			
1–399	(869–060–00054–2)	62.00	Apr. 1, 2006
400–End	(869–062–00055–3)	26.00	Apr. 1, 2007
19 Parts:			
1–140	(869–062–00056–1)	61.00	Apr. 1, 2007
141–199	(869–062–00057–0)	58.00	Apr. 1, 2007
200–End	(869–062–00058–8)	31.00	Apr. 1, 2007
20 Parts:			
1–399	(869–062–00059–6)	50.00	Apr. 1, 2007
400–499	(869–060–00060–7)	64.00	Apr. 1, 2006
500–End	(869–060–00061–5)	63.00	Apr. 1, 2006
21 Parts:			
1–99	(869–062–00062–6)	40.00	Apr. 1, 2007
100–169	(869–062–00063–4)	49.00	Apr. 1, 2007
170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
*500–599	(869–062–00067–7)	47.00	Apr. 1, 2007
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
*800–1299	(869–062–00069–3)	60.00	Apr. 1, 2007
1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–060–00071–2)	63.00	Apr. 1, 2006
300–End	(869–062–00072–3)	45.00	Apr. 1, 2007
23	(869–062–00073–7)	45.00	Apr. 1, 2007
24 Parts:			
0–199	(869–062–00074–0)	60.00	Apr. 1, 2007
200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
500–699	(869–062–00076–6)	30.00	Apr. 1, 2007
700–1699	(869–062–00077–4)	61.00	Apr. 1, 2007
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
***25**	(869–062–00079–1)	64.00	Apr. 1, 2007
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–060–00081–0)	63.00	Apr. 1, 2006
§§ 1.170–1.300	(869–062–00082–1)	60.00	Apr. 1, 2007
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
*§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[7] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–399	(869–060–00100–0)	64.00	Apr. 1, 2006
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–060–00102–6)	61.00	July 1, 2006
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–060–00104–2)	50.00	July 1, 2006
100–499	(869–060–00105–1)	23.00	July 1, 2006
500–899	(869–060–00106–9)	61.00	July 1, 2006
900–1899	(869–060–00107–7)	36.00	July 1, 2006
1900–1910 (§§ 1900 to 1910.999)	(869–060–00108–5)	61.00	July 1, 2006
1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
1911–1925	(869–060–00110–7)	30.00	July 1, 2006
1926	(869–060–00111–5)	50.00	July 1, 2006
1927–End	(869–060–00112–3)	62.00	July 1, 2006
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–060–00115–8)	58.00	July 1, 2006
31 Parts:			
0–199	(869–060–00116–6)	41.00	July 1, 2006
200–499	(869–060–00117–4)	46.00	July 1, 2006
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–060–00119–1)	61.00	July 1, 2006
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–060–00122–1)	37.00	July 1, 2006
700–799	(869–060–00123–9)	46.00	July 1, 2006
800–End	(869–060–00124–7)	47.00	July 1, 2006
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–060–00127–1)	57.00	July 1, 2006
34 Parts:			
1–299	(869–060–00128–0)	50.00	July 1, 2006
300–399	(869–060–00129–8)	40.00	July 1, 2006
400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–060–00131–0)	37.00	July 1, 2006
200–299	(869–060–00132–8)	37.00	July 1, 2006
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
0–17	(869–060–00135–2)	60.00	July 1, 2006
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–060–00137–9)	42.00	July 1, 2006
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–060–00139–5)	45.00	July 1, 2006
52 (52.01–52.1018)	(869–060–00140–9)	60.00	July 1, 2006
52 (52.1019–End)	(869–060–00141–7)	61.00	July 1, 2006
53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–060–00143–3)	58.00	July 1, 2006
60 (Apps)	(869–060–00144–7)	57.00	July 1, 2006
61–62	(869–060–00145–0)	45.00	July 1, 2006
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–060–00152–2)	29.00	July 1, 2006
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–85	(869–060–00154–9)	60.00	July 1, 2006
86 (86.1–86.599–99)	(869–060–00155–7)	58.00	July 1, 2006
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–060–00158–1)	45.00	July 1, 2006
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–060–00161–1)	39.00	July 1, 2006
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–060–00165–4)	56.00	July 1, 2006
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–060–00167–1)	61.00	July 1, 2006
790–End	(869–060–00168–9)	61.00	July 1, 2006
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	(869–060–00169–7)	24.00	July 1, 2006
101	(869–060–00170–1)	21.00	[8] July 1, 2006
102–200	(869–060–00171–9)	56.00	July 1, 2006
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
1 (Parts 1–51)	(869–060–00198–1)	63.00	Oct. 1, 2006
1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
1–16	(869–060–00214–6)	11.00	[9] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[9] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,389.00	2007
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2007
Individual copies		4.00	2007
Complete set (one-time mailing)		332.00	2006
Complete set (one-time mailing)		325.00	2005

[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, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.